



# Redundancy and Restructure Policy and Procedure (Including advice and Guidance)

Date	HT	Chair	Date of next review
26.01.26	M Hibbert	C Glynn	January 2027

# FOREWORD

This document has been the subject of formal negotiation and consultation with the recognised Trade Unions and Professional Associations.

Whilst there was considerable co-operative development of the document at Schools' Joint Consultative Committee, it has not been possible to reach a collective agreement on the whole policy, with the recognised trade unions and professional associations.

The NASUWT in particular raised strong objections to the use of temporary variations to contract as a means to mitigate against compulsory redundancy.

It has been necessary to update this policy to include the legislation changes set out in the Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024 which came into effect on 6<sup>th</sup> April 2024. The document has been revised to:

- Clarify that employees who are pregnant or on family leave have legal protections which give them priority status for redeployment opportunities in a redundancy situation.
- Make a number of formatting changes including combining the Policy document and advice and guidance into one document and removing the template documentation which are now available separately on S4S.
- The policy provides more flexibility in terms of timetables to enable schools to hold consultation meetings during the consultation period and for appeals to be heard within the notice period.

Governing Boards are strongly advised to adopt the LA's procedure but should be aware that the trade unions and staff associations reserve the right to challenge any aspect of a redundancy or restructure process, such as the consultation arrangements, identification of 'at risk' pools, selection criteria, and the appropriateness of the redundancies and/or restructure. When Governing Boards agree and apply their selection criteria, they must be mindful of the potential for and seek to avoid direct or indirect discrimination.

The Governing Board of any school wishing or intending to adopt an alternative procedure or make amendments to the LA recommended document must conduct its own formal consultations.

Once the Governing Board adopts the revised policy and procedure, any remaining copies of the former redundancy procedure, restructuring procedure and any advice and guidance should be destroyed/deleted to avoid confusion.

June 2025

# CONTENTS

## ESSENTIAL PRINCIPLES OF THE REQUIREMENTS UNDERPINNING THE REDUNDANCY AND RESTRUCTURING PROCEDURE

- 1. Scope**
- 2. Introduction**
- 3. Relevant Legislation**
- 4. Workforce Planning**
- 5. Statement of intent**
- 6. Redundancy / Restructure Background**
- 7. Measures to avoid or to mitigate the need for redundancies**
- 8. Measures to mitigate against compulsory redundancy**
  - a. Cessation of Fixed-term contracts
  - b. Procedure for ending Fixed-term contracts
  - c. Buy-out of Hours (Support Staff)
  - d. Temporary variations to contracts to mitigate redundancies
  - e. Flexible or phased retirement
  - f. Voluntary Early Retirement
  - g. Voluntary and Bumped Redundancies
- 9. Redeployment**
  - a. Offer of alternative employment
  - b. Employer responsibilities
  - c. Redeployment Support
- 10. A fair redundancy dismissal procedure**
- 11. Consultation**
- 12. Redundancy Selection**

- a. Notice to Trade Unions and Professional Associations Consultation (section 188) Notice
- b. Individual Consultation
- c. Form HR1
- d. Withdrawal of redundancy notice

### **13. Restructure Guidance**

- a. Principles and definitions used within the restructuring process
- b. Support staff – Grading and Single Status
- c. Pay Protection

### **14. Equalities – Public Sector Equality Duty**

**Flow Chart to determine whether to follow the redundancy/ restructure procedure or both.**

#### **PART A – REDUNDANCY ONLY PROCEDURE (i.e., Reduction of Headcount only)**

- **FLOW CHART**

- a. Definition
- b. Summary - Redundancy Procedures and timescales
- c. Redundancy Consultation
- e. Selection Procedure
- f. The First Committee Meeting
- g. Representations to the First Committee
- h. Appeals
- i. Notification of Redundancy
- j. Conclusion of Process/Final stages

#### **PART B – RESTRUCTURE WITH REDUNDANCY PROCEDURE**

- **FLOW CHART Page 1, Page 2, Page 3**

- a. Definition
- b. Consultation on proposed new structure
- c. Formal Consultation
- d. Individual Consultation
- e. Voluntary Redundancy
- f. Agreeing and implementing the new structure
- g. The First Committee Meeting
- h. Representations to the First Committee

- i. Appeals
- j. Notification of outcome

## **PART C – RESTRUCTURE ONLY PROCEDURE – (i.e., No Redundancy)**

- **FLOW CHART**

- a. Definition
- b. Consultation on proposed new structure
- c. Formal Consultation process
- d. Agreeing and implementing the new structure
- e. Appeals
- f. Notification of Outcome

## **APPENDICES**

Appendix A1	Initial knowledge, skills and experience audit – Teachers
Appendix A2	Initial knowledge, skills and experience audit – Support staff
Appendix B	Temporary Variation of Contract to mitigate risk of compulsory redundancy
Appendix C	Redundancy Selection Criteria
Appendix D	Guidance on the arrangement of formal meetings with staff involving Union/Professional Association representatives

**ESSENTIAL  
PRINCIPLES OF THE  
REQUIREMENTS  
UNDERPINNING THE  
REDUNDANCY AND  
RESTRUCTURING  
PROCEDURE**

## **1. SCOPE**

This procedure has been adopted by the Governing Board of **XXXXXXXXX** School in accordance with the advice of Derbyshire County Council consistent with the requirements of National and Local Conditions of Service and the Articles and Instruments of Government and the Advisory, Conciliation and Arbitration Service (ACAS). This policy applies to all employees of the school. It does not apply to other staff working at the school who are employed directly by Derbyshire County Council or other partner organisations.

The policy is laid out in 3 separate parts and the school will use the part of the policy applicable to the circumstances by referring to the flowchart on page 21.

## **2. INTRODUCTION**

A staffing structure review may be focused on teaching staff, support staff or encompass the whole structure.

Where the school's budget, projections for future pupil numbers and other indicators of future resources to be available indicate that, even with other savings, a reduction in staffing is likely, the school will usually conduct a standalone redundancy procedure to secure the necessary reduction. This may be through the consultation process where voluntary options are pursued, other solutions found or the formal procedure applied. The school will explore the flexibility of staff to fill vacancies across the school to avoid recruiting to some vacant roles and making reductions in other areas, where this is possible.

Where the changes include a reduction in the staffing complement of the school it is important to ensure that a fair process is followed which either implements a revised staffing structure or reduces the headcount where jobs are unchanged, but a reduction is required in employee numbers.

Reference within the agreed procedure to "working days" means Monday to Friday excluding bank holidays. "Working days" will be in term-time.

The principles and documentation outlined as part of the redundancy procedure will apply equally to any redundancy procedure followed whether it be a stand-alone redundancy under Part A of the procedure or whether a restructure is also undertaken under Part B of the procedure. Likewise, the principles and documentation outlined as part of the restructure procedure will equally apply to any restructure procedure followed whether it be a stand-alone restructure under Part C of the procedure or whether the restructure also involves a reduction in the number of posts and the procedures outlined in Part B are being followed.

## **3. RELEVANT LEGISLATION**

The Employment Rights Act 1996 sets out the employment rights to which employees are entitled, once they have accrued two years or more continuous service, within the maintained sector, in any capacity, in any or several establishments. In some cases, Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, the Trade Union Reforms and Employment Rights Act 1993 may also apply. In addition there is a statutory right for teachers

to make representations and of appeal under paragraph 27 of schedule 16 of the Schools Standards and Framework Act 1998.

The major elements are:

- i. A requirement for the employer or relevant body to undertake full and meaningful consultation.
- ii. A right to dismissal on fair and reasonable grounds by a defined procedure and minimum timescale.
- iii. A First Committee meeting where posts, and therefore postholders, are identified for redundancy.
- iv. The right of representation to the First Committee.
- v. The right of an appeal hearing to an Appeal Committee, which excludes members of the First Committee.
- vi. The right to a redundancy notice, the period for which is one week for each year of continuous service, up to a maximum of twelve weeks, or the minimum laid down in the employee's conditions of service.
- vii. A requirement for the employer to consider all possible alternatives to redundancy and opportunities for suitable alternative employment, which may include retraining.
- viii. The right to a redundancy payment after two or more years' continuous service.

### **Equality Act 2010**

When conducting a consultation with a view to implementing a revised staffing structure which may include making one or more posts redundant, the process and provisions for enacting the staffing reduction must take account of the legislation that prohibits discrimination on the grounds of race, religion or belief, sexual orientation, age, disability, gender reassignment and sex. Discrimination by an association, against someone because they are associated with another person who possesses a protected characteristic is also covered by the Act.

Indirect discrimination applies to age, race, religion or belief, sex, sexual orientation, marriage/civil partnership, disability and gender reassignment. Indirect discrimination can occur when an organisation has a rule, policy, condition or practice that applies to everyone but particularly disadvantages people who share a protected characteristic. It can be possible to justify indirect discrimination if it can be shown to be 'a proportionate means of achieving a legitimate aim'.

### **Education Act 2002**

Where the Local Authority is the employer, e.g., in a maintained school; the Governing Board are responsible for determining whether a payment should be made by the Local Authority in respect of a dismissal on grounds of redundancy for any staff member in the school. The Local Authority must take steps to act

upon any determination of the Governing Board. Costs incurred by the Local Authority due to a dismissal of any staff member in a maintained school, shall not be met from the school's budget share for any financial year, except in so far as the authority have good reason for deducting those costs or any part of those costs, from that share. However, the costs incurred by the Local Authority in respect of any premature retirement of a staff member in a maintained school shall be met from the school's budget share for one or more financial years.

### **Protection from Redundancy (Pregnancy and Family Leave) Act 2023**

The Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024 regulations that came into force on 6 April 2024 provides safeguards to individuals during pregnancy or family leave.

The act grants priority to:

- A pregnant employee
- An employee who is on Maternity leave
- An employee who has recently suffered a miscarriage.
- Maternity returner
- Adoption leave returner
- Shared parental leave returner.

Employees who are absent for one of these statutory family leave reasons have the right to return to the same job they had before they left. Where no post is available, they must be offered **any** suitable alternative vacancy if one exists. They do not need to apply for it.

The regulations, therefore, give priority status for redeployment opportunities in a redundancy situation.

For pregnant workers and those on maternity leave the period of the protection will start from the date that the school is informed of the pregnancy and will end 18 months after the child's date of birth.

For adoption leave the protection will end 18 months from the date of the placement.

Where an employee suffers a miscarriage, they are protected for two weeks after the end of the pregnancy where the pregnancy ends before 24 weeks. Pregnancies which end after 24 weeks are entitled to maternity leave and the maternity leave protections apply.

In the case of shared parental leave, if the employee has also taken maternity or adoption leave the protection periods relating to these absences apply. Where this is not the case an employee who takes 6 weeks or more continuous shared parental leave is protected from the beginning of the start of the shared parental leave (SPL) until 18 months after the date of birth or placement for adoption. If less than 6 continuous weeks SPL is taken, the employee is entitled to protection from the start of the SPL until 2 weeks after the end of the SPL.

From 6 April 2025, employees taking neonatal care leave are also protected from redundancy during the time they are on neonatal care leave and if the employees have taken 6 consecutive weeks of neonatal care leave.

The following protected period will apply for those employees who have taken 6 consecutive weeks or more of neonatal care leave:

- 18 months from birth for birth parents and intended parents in a surrogacy
- 18 months from the day the child is placed for adoption
- 18 months from the day the child enters Great Britain for overseas adoption

Early consultation with an HR advisor is essential when an employee who has been granted priority is affected by a Redundancy or Restructure.

### **The Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000**

Part-time workers have the right not to be treated less favourably than a full-time worker doing the same or similar work regarding the terms of employment. This means they should not be treated less favourably when workers are selected for redundancy.

Employees also have the right not be excluded from training simply because they work part-time.

### **Fixed Term Employees' (Prevention of Less Favourable Treatment) Regulations 2002**

The Fixed Term Employees' (Prevention of Less Favourable Treatment) Regulations 2002 requires that staff on temporary or fixed term contracts are treated no less favourably than those on established contracts. Additionally, the Employment Rights Act (ERA) 1996 states the expiry or non-renewal of a temporary or fixed term contract is a dismissal in law.

### **Consultation – Duty of Governing Board**

Under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRA), there is no statutory timescale for consultation laid down where up to 19 employees are to be dismissed due to redundancy in an establishment. Where 20 - 99 employees are to be dismissed for redundancy at an establishment a consultation period of 30 calendar days is required. Section 193 of TULRA states that where 20-99 employees are to be dismissed for redundancy 30 calendar days' notice of this must be sent to the Secretary of State.

Failure to inform the Trade Unions and Professional Associations or consult with them in accordance with section 188 of the TULR Act 1992 could result in an Employment Tribunal granting a Protective Award, which would be a specified number of weeks salary for each employee affected.

When providing advice and guidance to the Executive Director, Children's Services representative will want to ensure that the Governing Board fulfils the legal requirements for redundancy consultation procedures. This is particularly important in the case of a maintained school.

The requirement to consult with Trade Unions and Professional Associations extends to other “potential dismissal” situations, for example, when varying terms of employment or termination of a temporary contract. Unless there is a specific term stated in the contract of employment which allows the variation, consultation is required.

#### **4. WORKFORCE PLANNING**

The Governing Board will consider the school’s staffing structure on a regular basis, especially when staff leave the school. Careful consideration will be given to the need to replace staff to ensure that where possible the school is able to meet its future staffing and budget requirements without the need to make compulsory reductions to the staffing establishment in the foreseeable future.

The school will aim to be more strategic in its approach to ensuring that the right number of people with the right skills are employed to deliver their short and long-term goals. Regularly identifying the available skills within the current workforce and identifying the knowledge and skills required for the future will help the school to develop a flexible workforce able to respond to future needs.

The school will consider:

- Keeping a record of the skills and knowledge of all staff so that staff deployment can be managed effectively and fairly.
- Implementing timetabling changes where possible and appropriate to mitigate reductions.
- Auditing the skills and knowledge of all staff on a regular basis. This may be done within the annual appraisal cycle or by asking staff to complete an initial knowledge, skills and experience audit each year. An initial knowledge, skills and experience audit for Teachers and Support Staff respectively may be used. (See Appendix A1 and A2)
- Identifying and publishing the knowledge and skills that will be required for the future.

The school will aim to develop a flexible workforce able to meet the future needs of the school. Where possible, the Senior Leadership will ensure that all staff understand the skills and knowledge that would be valued in the future and are given equal opportunity to access the training and development necessary to be able to demonstrate their strengths in these areas.

#### **5. STATEMENT OF INTENT**

It is the policy of this School through careful planning to ensure as far as possible security of employment for its employees. There may, however, be changes in local circumstances, organisational requirements and technological developments which may affect staffing needs. Governors will examine all budget headings and identify a clear rationale for deciding on specific categories of employees. It is the aim of the school in consultation with Trade Unions and Professional Associations to maintain and enhance the efficiency of the school in order to safeguard the current and future employment of the school’s employees.

## **6. REDUNDANCY / RESTRUCTURE BACKGROUND**

The factors driving a review of staffing are likely to include one or more of the following:

- the School Improvement Plan has identified that a change in the structure may be of benefit to the school and all other avenues have been explored.
- significant change to the size of the school
- the introduction or reduction in the requirement for certain staff roles.
- changes in the way some school functions are to be delivered may be driven by technological developments.
- the budget and resources available to the school.

The staffing structure review may be focused on teaching staff, support staff or encompass the whole structure. The Governing Board will take a whole school strategic approach to determine the overall staffing structure required to meet the current and future needs of the school and all elements of the school staffing structure will be considered.

The school in consultation with the Trade Unions and Professional Associations will seek to find ways to avoid redundancies wherever possible. When this is unavoidable the school will seek ways to reduce the numbers and mitigate the consequences of redundancies. This will include the provision of sufficient time and effort in finding alternative employment for any employees and through co-operation with the Local Authority in its attempts to redeploy staff through the assignment of a redeployment officer and working with local schools and clusters. Where compulsory redundancy is inevitable the school will handle the redundancy in the most fair, reasonable, consistent and sympathetic manner possible.

Where very small adjustments to the Staffing Structure are being considered and/or the school is small and the issues are already familiar to the staff, it may be appropriate to abbreviate some of the steps. The Headteacher will consult Trade Union/Professional Association Representatives to agree the appropriate process, even where the change is considered to be minor.

The Governing Board will direct the Headteacher to inform all employees about potential redundancies at the earliest opportunity prior to any formal process and also to explain strategies available to affect any staffing reductions. The Headteacher will also keep staff informed as circumstances change and develop.

If a school does not consult with or act in accordance with guidance from either HR and/or School Support Finance the Local Authority would have to consider whether to pass on to the school budget the full costs of such a decision.

## **7. MEASURES TO AVOID OR TO MITIGATE THE NEED FOR REDUNDANCIES**

Where redundancies are contemplated; the Governing Board will consider ways in which it is able to avoid or reduce the number of redundancies within the constraints of its budget and within the requirements of the curriculum and its obligations to pupils.

Such approaches would include:

- workforce planning.
- natural wastage/planning which may include a review of how staff are deployed in school when a vacancy occurs which may include teaching non-specialist subject areas.
- balancing the budget over more than one year.
- restricting the recruitment of permanent employees.
- reducing the use of temporary contracts.
- reduction of overtime.
- normally filling vacancies from among existing employees.

## **8. MEASURES TO MITIGATE AGAINST COMPULSORY REDUNDANCY**

To ensure any dismissal is fair the Governing Board will consider in some detail the extent to which the measures listed below can be used to avoid compulsory redundancy:

- termination of temporary and/or casual appointments (which may themselves involve dismissal).
- voluntary job-sharing arrangements.
- voluntary variation of contract.
- buy out of hours (support staff).
- voluntary transfer to part-time employment within the school.
- voluntary early retirement.
- career break scheme.

### **a. Cessation of Fixed Term Contracts**

All fixed term contracts of less than four years' continuous duration which have a termination date before the day on which any proposed redundancies will take place, will need to be confirmed as terminating on the end date of the contract, unless required to meet curriculum delivery. The school will need to check an employee's contract history, as if the fixed term contract was a renewal of a previous fixed term contract, then the period of 4 years may have been exceeded. In all cases it will be very important to consult with HR as employees' circumstances and employment history can be complex so determining their rights may require expert analysis.

### **b. Procedure for Ending Fixed Term Contracts**

The Fixed Term Employees' (Prevention of Less Favourable Treatment) Regulations 2002 requires that staff on temporary or fixed term contracts are treated no less favourably than those on established contracts. Additionally, the Employment Rights Act (ERA) 1996 states the expiry or non-renewal of a temporary or fixed term contract is a dismissal in law.

Dismissals must be "fair and reasonable in all the circumstances". This includes the requirement to follow a fair procedure and for the dismissal to be for a fair reason. It would therefore not be unreasonable to use the ACAS Code of Practice to determine a fair procedure, using a three-step approach.

It is important that the procedure is started as early as possible in order that it can be completed as follows:

- i. A letter confirming that the contract is due to end; a reason why it is not to be renewed to be sent to the employee. An opportunity to be given to the employee to make representations against this dismissal as a result of non-renewal of the contract.
- ii. A meeting to discuss employee representations against dismissal followed by written confirmation of the decision.
- iii. The right of appeal to Governors.

A decision not to renew a contract must be taken to provide sufficient time for the employee to be issued with the correct notice.

If the reason for the expiry of their fixed term contract is by reason of redundancy and alternative employment has not been identified any individual with two years' continuous employment is entitled to a statutory redundancy payment upon the ending of their employment to be terminated.

An employee who has four years' service on a fixed term contract will be presumed to have become an established contract unless a further renewal on a fixed term basis can be objectively justified to the Headteacher.

Further guidance and standard letters are available. Please refer to the "Contracts of Employment guidance for schools" which is available to subscribers to the HR Advisory Service on S4S. It applies to all school employees, teaching and support staff, including Specialist Teaching and Learning Assistants employed to support a statemented pupil. The Schools' HR Advisory Service are also available to provide support and advice.

#### c. **Buy-out of hours (Support Staff)**

One of the measures to minimise redundancies is to reduce workforce costs by giving employees an opportunity to reduce their contractual hours in increments of one hour per week.

The Governing Board may wish to consider the use of a buy-out payment that reflects the grade and pay point of employees calculated according to their actual pay for 26 calendar weeks. This payment would be subject to tax and pension contributions. The Scheme would be targeted primarily at specific employee groups or sections where savings are required and applied with the agreement of the Governing Board.

#### **Scheme application**

As an alternative to redundancies in a specific team, employees can be asked if they wish to reduce their contracted hours. The reasonableness of applying this will need to be agreed on a case-by-case basis. Employees can opt to reduce their contractual hours in increments of one hour per week.

The one-off payment will be calculated pro rata to the reduction in hours using a buy-out of hours payment matrix. This will calculate the amount payable based on the hourly rate for the individual according to their rate of pay with a multiplication factor of 26 Calendar weeks.

The working pattern for the reduced contractual hours will be agreed by the Headteacher and individual depending upon the schools need and the flexibility required. This might include for example reducing hours on one day a week or working a reduced number of hours spread over the week.

The one-off payment (subject to tax and NI) will be made upon reduction in hours and a signed variation to contract agreement.

Hours will be bought out on an indefinite basis and the payment must be repaid in full if the employee leaves the school within six months. The costs of the buy-out must be met from the school's budget share.

### **Limits**

It is recommended that the maximum buy out of hours is equivalent to 2 days per week, or pro rata for part time staff. No payment will exceed £5,000.

No payment should exceed the amount that would be received in redundancy pay.

### **Qualifying criteria**

All employees within the affected team can apply; approval will be determined by school need. Employees must have a minimum service with the school of one year.

### **Exclusions**

Employees taking voluntary redundancy or voluntary early retirement or flexible retirement. Employees subject to (non-disability related) capability procedures and who are recommended to reduce their hours.

Requests should not be approved where the work that the employee carries out cannot be absorbed by the employee, by others or ceased. There will not be an increase in headcount, use of agency staff, overtime, or additional hours to accommodate a request to reduce hours.

### **Process**

The process will be coordinated by Headteacher, and the senior manager of the team affected. Requests are to be considered in light of school need and continuity by the Headteacher. The start date for working reduced hours is to be agreed by the Headteacher once the application is approved.

The Schools' HR Advisory Service Team are available to provide additional support and advice about offering a buy-out of hours in relation to a variation of contract.

#### **d. Temporary Variation of Contract to mitigate compulsory redundancies**

***Please note that this approach is not supported by the NASUWT.***

The Governing Board may consider offering staff the opportunity to request a temporary variation to reduce their contracted hours. If one or more staff expresses an interest and the variation is implemented this may secure sufficient saving to allow more time for natural movement of staff or other changes in the funding/expenditure balance to resolve the situation.

When determining whether to offer this opportunity to staff, Governors will consider:

- The operational timetabling issues, with the quality of delivery to pupils as the prime consideration.
- The time frame for the reduction. It is recommended that this should be for a year.
- Reaching agreement that if the situation worsens beforehand, or in a year, and there needs to be a redundancy, the payment to redundant staff will be calculated on their substantive contract, not the reduced hours.
- Developing an agreed timetable for when the Governing Board and staff will discuss whether any extension to the variation should be considered. e.g., for variations running from 1 September to 31 August, this review may take place in January.
- What process will be followed if the school receives more funding before the end of the variation and the school could afford a return to the original contract for some of the staff who have accepted a variation.
- Ensuring that the specifics of the agreement are recorded in Governors' minutes.

In addition, should Governors decide to offer this opportunity staff will need to be informed that any sickness or maternity benefits generated during the variation will be based on the reduced hours and that staff should check for themselves any potential effect on state benefits received and pension calculation. Staff would also need to be advised to seek guidance from their professional association/union/independent financial adviser.

Once a potential redundancy situation is announced staff may get together to consider the variation option and bring a proposal to the Governing Board collectively. Governors are advised to do their best to ensure that some staff are not being put under pressure to comply with a group decision. All staff involved should individually write to the Governing Board before the close of consultation, expressing their willingness to accept the variation.

The DCC advice and guidance document: "Temporary Variation to Contract Mitigating Risk of Compulsory Redundancies" provides detailed guidance and template letters for schools to follow when offering staff, the opportunity of a temporary variation to contract. This is attached as appendix 2. The Schools' HR Advisory Service Team are also available to provide support and advice.

#### e. **Flexible or Phased Retirement**

##### **Flexible Retirement – Support Staff**

An employee who is in the Local Government Pension Scheme and is over 55 may wish to consider applying for flexible retirement. If this is agreed, they would be able to draw the pension benefits that they have built up to help them ease into retirement.

In order to qualify for flexible retirement, the individual must reduce their hours by at least half or move to a less senior position.

**Any staff interested will need to consult pension services and/or an accredited financial advisor to ensure that they are fully aware of the implications in their individual circumstances.**

Governors will need to agree to the request and agree to the contractual changes which will qualify an individual for flexible retirement. Governors will need to make themselves aware of any shortfall that may be applicable before reaching a decision as any shortfall will be deducted from the school's budget share.

### **Phased Retirement – Teachers**

A Teacher who is in the Teachers' Pension Scheme may wish to consider a phased retirement. This may enable a teacher to take a post with less responsibility or work reduced hours and take the pension benefits that they have accrued. A teacher can access phased retirement if their pensionable salary reduces by at least 20% of the average salary they received in the previous 6 months. Teachers should be aware that their application for Phased Retirement must be made within three months of starting employment in a reduced capacity. They can make their application in advance of starting work in the reduced post. The maximum amount that a member can take in phased retirement is 75% of their total benefits. Governors will need to agree this arrangement as they will be required to provide confirmation of the salary reduction on the application form. **Any staff interested should consult [teachers' pensions](#) and/or an accredited financial advisor for more information and to ensure that they are fully aware of the implications in their individual circumstances.**

#### **f. Voluntary Early Retirement**

### **Support Staff**

The school may consider offering support staff between the age of 55 and 59 the opportunity of voluntary early retirement, which, if agreed, would enable them to access their pension early. This may incur pension shortfall costs which are payable to the Local Government Pension Scheme and the cost of this would be deducted from the school's budget share. As this would involve a mutual termination there would be no redundancy and therefore a redundancy payment would not be made. The employee would enter into a binding agreement with the school, and once signed by both parties, the school would not be able to withdraw it if circumstances within the school change. The Governing Board will need to consider the risks and value for money of this arrangement and would need to consider each application carefully to ensure that they do not lose the essential skills and expertise required to meet future needs. The school may wish to limit the offer to a particular group of staff where reductions are necessary.

### **Teachers**

A teacher aged over 55 can request that Teachers' Pensions release their early retirement benefits at any time. To access information about their early retirement benefits under the Teachers' Pension Scheme they will need to contact Teachers' Pensions Service to obtain an estimate of the pension benefits that they would receive if they retire early. The early retirement pension will be based on the contributions that they have made up to the date of the retirement and will be reduced to reflect the fact that the individual teacher has accessed their pension before their normal retirement age.

The school is able to agree to meet the costs of allowing the teacher to access their pension benefits early, but the ongoing annual costs would be deducted from the

school's budget share each year until the pension ceases upon the death of the pensioner.

## g. **Voluntary and Bumped Redundancies**

### **Voluntary Redundancies**

Careful consideration will need to be given as to whether the acceptance of requests for voluntary redundancy will mitigate a compulsory redundancy. The request may be accepted provided that; the reduction of the post meets the need of the school. **Where the Local Authority is the employer and the school determines that it wishes to accept requests for voluntary redundancy, it must consult with the Local Authority.** Where the costs of accepting a volunteer are significantly higher than the costs that would have been incurred had the school been through a compulsory selection procedure, the Local Authority may or may not take the view that, in accordance with the Education Act 2002, this would be a good reason for deducting those costs or any part of those costs from the school's budget share.

### **Bumped Redundancies**

A bumped redundancy occurs when an employee whose role is not at risk of redundancy is dismissed as redundant on a voluntary basis thus allowing an "at risk" employee to remain in employment. Consideration should be given to whether this presents an opportunity for a request for voluntary redundancy to be agreed. **Where the Local Authority is the employer, the school must consult the Local Authority before agreeing a bump.** Where the costs of accepting a bumped redundancy are significantly higher than the costs that would have been incurred had the school been through a compulsory selection procedure, the Local Authority may take the view that, in accordance with the Education Act 2002, this would be a good reason for deducting those costs or any part of those costs from the school's budget share.

## **9. REDEPLOYMENT**

### **a. Offer of Alternative employment**

An employer has a statutory duty in redundancy situations to consider whether suitable alternative employment exists.

The Governing Board are required to offer any employee selected for redundancy any suitable alternative post in the school that becomes available.

A range of factors must be taken into account when determining the suitability of an alternative job offer including grade, level of earnings, status, working environment, terms and conditions of employment, working pattern and location. The employee will be given sufficient details to enable them to decide whether to accept the new role or not. Employees who unreasonably refuse an offer of suitable alternative employment may lose any entitlement to redundancy pay.

An employee has a statutory entitlement to a four-week trial period, which commences at the end of the notice period, where they accept employment on terms and conditions which differ in any material respect from their previous terms and conditions. The purpose of the trial period is to give the employee a chance to decide whether the new job is suitable without necessarily losing the right to a redundancy payment.

If there is agreement that the role is not a suitable alternative, the employment ends by reason of redundancy.

#### **b. Employer Responsibilities**

The Governing Board will seek to work with the Local Authority and other local schools to assist in redeploying employees identified as surplus for whatever reason and will reciprocate by giving fair consideration to employees offered or nominated to them for redeployment by the Local Authority.

Where the Local Authority is the employer of staff, the Governing Board will, as required by law, notify the Executive Director, Children's Services of any teaching vacancy and the associated job specification.

The Executive Director, Children Services or their representative will monitor the information available to them with a view to identify any potentially suitable appointments against which to nominate employees for consideration by other Governing Boards.

#### **c. Redeployment Support**

Where the Local Authority is the employer of staff, the Executive Director, Children Services or their representative will work with the school to identify those staff who have been selected for redundancy and how they can be best supported to find suitable alternative work.

The redeployment support provided by the Local Authority will include:

- A personal copy of the vacancy list sent to individual email addresses providing details of jobs advertised by the Derbyshire County Council and partner organisations.
- A hard copy of the DCC jobs bulletin sent to their home address where required.
- Support from the HR Advisory team who will be a point of contact on redeployment matters and will make contact with recruiters when requested.
- A Link to an information booklet – Redundancy & Redeployment Guide for School Staff, which is available to download from S4S.
- Access to Careers Service support and training.
- Inclusion on a redeployee list maintained by DCC which is available for all Derbyshire Schools to access when they have a vacancy.

### **10. A FAIR REDUNDANCY DISMISSAL PROCEDURE**

The timing of the steps in any procedure which leads to a potential redundancy is crucial. Where the Local Authority is the employer, if a Governing Board notified the Local Authority of a decision that an individual should be removed from the School the Local Authority would have to dismiss the employee. For any redundancy dismissals

in relation to a maintained school, the Local Authority would have to consider whether to pass on to the school budget the full costs of such a decision if any of the following are not met:

- sufficient time for full and meaningful consultation.
- a proper procedure has been followed.
- attempts have been made to reallocate the specific employee.
- all alternatives to compulsory redundancy have been fully explored.

In any of these circumstances the dismissal might be deemed unfair by an Employment Tribunal and would be deemed by the Local Authority as, good reason for deducting the costs, or part of the costs, from the school's budget share.

## **11. CONSULTATION**

The Governing Board is committed to consulting with relevant Trade Unions and Professional Associations as soon as practicable and keeping representatives fully informed about staffing requirements and any possible need for redundancies. The aim is to safeguard the interest of employees while meeting the prime objective of maintaining effective delivery of education to pupils. There is a requirement to consult with Trade Unions and Professional Associations whenever there is a potential dismissal situation i.e., in addition to the statutory requirement to consult in a redundancy situation there is a requirement to consult when varying terms of employment or termination of a temporary contract.

Consultation will include consideration of ways of avoiding redundancies reducing them to a minimum and/or mitigating the consequences of dismissals.

Some parts of consultation may be in small groups or team meetings.

Where the Local Authority is the employer, the Governing Board will, at the outset, advise the Local Authority of the staffing requirements of the school and will continue to inform the Local Authority throughout the redundancy process.

The consultation with relevant Trade Unions and Professional Associations will begin as soon as possible and, in any case, will not be less than the period required by legislation, that is at least 30 days where 20 or more redundancies are being considered. Where less than 20 or more redundancies are being considered it will be expected that the Governing Board will adopt this timescale as best practice, or as a minimum at least 20 working days.

During the consultation period it is good practice to provide all staff with a Questions and Answers document.

### **a. Notice to Trade Unions and Professional Associations Consultation (Section 188) Notice**

It is the duty of a Governing Board which is contemplating redundancy of one or more employees of any description in respect of whom an independent Trade Union or Professional Association is recognised by the employer to consult at the earliest opportunity with Trade Union and Professional Association representatives (County Secretaries and organisers authorised to carry out collective bargaining on their behalf).

In order to comply with the duty, the Governing Board will provide in writing to the County Secretaries of the relevant Trade Unions and Professional Associations the information outlined in the guidance attached to each section of the policy.

This information will be sent electronically by e-mail. A copy of this consultation (Section 188) notice must be sent to the Executive Director, Children's Services for schools where the LA is the employer.

**b. Individual Consultation**

Any employee or groups of staff where the area of work they undertake is identified as being at risk of any reductions will be advised before any collective meeting emphasising that this is the start of the consultation process. Individual staff who are directly affected by the proposals may wish to meet with the Headteacher and should be provided with the opportunity to do so. Further guidance on setting up meetings with individuals and their trade union representatives is attached as Appendix D.

**c. Form HR1**

Proposed redundancies of 20 or more employees at one establishment in a 90-calendar day period must be notified to the Department of Business, Energy and Industrial Strategy (BEIS) on Form HR1. Where this is the case a copy of the HR1 will also be given to Regional Trade Union officials or other employee representatives who were consulted, and also be copied to the Local Trade Union branch as good practice.

**d. Withdrawal of Redundancy notice**

Circumstances may change during the consultation period when ways of mitigating redundancies can be identified e.g., A resignation occurs or a group of staff agree to vary (reduce) their contractual hours. Where there is no longer a requirement to make redundancies, the school will write to all parties and notify them.

**12. REDUNDANCY SELECTION**

The selection method underlying this policy is that redundancy selection will be made by reference to written selection criteria and completion of an assessment form. Trade unions, in any case, would need to be fully consulted on the selection method to be used.

**13. RESTRUCTURE GUIDANCE**

**a. Principles and definitions used within the restructuring process**

**i. Objective**

To achieve the best possible "fit" of staff at the school.

**ii. Scope**

- The restructure exercise will be restricted to current staff at the school.

- Staff that are undertaking duties at a higher level at the school temporarily will be slotted or ring-fenced under this process based on their substantive post in the first instance.
- Current job descriptions and person specifications will be used in conjunction with any new ones to inform selection processes, in particular whether posts in the new structure will be filled through slotting, ring fencing or advertising.
- The restructuring process will not be deemed a promotion exercise, although it is acknowledged on occasions it might result in a promotion opportunity.
- Any staff that are not assigned to a post immediately following the restructure processes, will have the opportunity to discuss options that might exist for consideration for any vacant posts, with reasonable training.
- Any new roles created which are not filled through the slotting, ringfencing or redeployment procedures will be advertised more widely.
- Only once all staff in the school, including those on temporary contracts have been considered for any posts should the vacancy be advertised.

### **iii. Slotting exercise**

A 'Slotting' exercise compares jobs in the current school staffing structure with those in the new school staffing structure. An individual will be 'slotted' to a post where their current post is "substantially the same or similar" to a post in the new staffing structure. For this exercise, "substantially the same or similar" will be determined taking into account the match between the essential requirements of the new and old job descriptions, plus evidence of meeting qualification requirements.

### **iv. Redundancy selection within restructuring process**

Where the restructuring process 'slots' individuals to a particular post, but there are more post-holders than new posts, it will be necessary to undertake a redundancy selection procedure in relation to that group of staff. This will normally be undertaken by asking individuals to complete a redundancy selection assessment form which will be used to score them against agreed redundancy criteria.

### **v. Ring-Fencing exercise**

- The 'Ring-Fencing' exercise applies where a new job description contains substantial elements of 2 or more existing job descriptions.
- Where individuals' posts are identified for 'Ring-Fencing' to new posts at the school, 'Ring-Fence' selection interviews will be undertaken to determine which staff should be appointed to the new posts.
- Ring-fencing interview arrangements will be arranged starting with higher-level posts and working sequentially down the staffing structure.
- Where there are a number of posts available to the ring-fenced pool, staff will be issued with a preference form to complete prior to interviews.
- Where a teacher does not wish to apply for any post for which they are eligible, they should not be deemed to have "stepped down" and therefore salary safeguarding will apply.
- 'Ring-Fenced' interviews will determine which individuals should be appointed to 'Ring-Fenced' posts.
- There should be an expectation that a ring-fenced interview will result in an appointment to a vacant post from individuals in the specific ringfenced pool.

- Where more senior staff are not appointed to posts at current level, they will be considered for posts at a lower grade. (Depending on difference in role, responsibilities salary) advice may be sought from HR on a case-by-case basis. Staff may be considered for the next one or two levels down only to be determined by job content.

**vi. Vacant posts following Slotting and Ring-Fencing exercise.**

- Staff will be notified of any posts that have not been provisionally assigned following the Slotting and Ring-Fencing exercise.
- Vacant posts will be advertised concurrently. Staff will be asked to provide a document expressing their interest in the role and outlining their skills, knowledge and experience for any posts they wish to be considered for. Shortlisted applicants will be considered for interview on the basis of their expression of interest, which should address the person specification requirements.
- Where staff who have not secured a post in the structure apply for vacant posts they will be considered for short-listing and interview assessment prior to external candidates.
- Preference for all vacant posts will be given to suitable permanent staff before making posts available to temporary staff.

**vii. Staff not appointed following the Slotting and Ring-Fencing exercise.**

- Action will be taken to seek suitable alternative positions for staff not appointed following the Slotting and Ring-Fencing exercise and if necessary, redundancy selection exercise; the school will seek to support this process.
- Staff who are not appointed to their desired post during the Slotting and Ring-Fencing exercise will have priority consideration for the remaining vacant posts arising from the Slotting and Ring-Fencing exercise. Where appropriate vacancies arise and individuals have the necessary skills or could acquire these skills within a reasonable period to complement the school's needs, they shall be considered for these posts. Where possible, the Headteacher will consider developing new posts at the school to attempt to meet the needs of the school and the needs of the individual concerned.

**b. Support Staff – Grading and Job Evaluation**

When considering a restructure involving Support Staff, it is important that the Headteacher & Governing Board reflect upon the Support Staff functions to develop a structure which will facilitate the delivery of support services in an efficient and effective manner.

As a result of this, it may be necessary to review the functions of Support Staff roles, which may result in some employees' roles being subject to change in respect of their roles, responsibilities and accountabilities.

The Governing Board will need to ensure that any revised support staff roles are equal pay compliant.

Where the school has adopted the Local Authority negotiated pay structure the Headteacher & Governing Board are advised to consider the Job Family Role Profiles produced by the Local Authority in respect of the following 6 Job Families, which provide information relating to the indicative roles, responsibilities and accountabilities of the various grades, alongside the relativities framework.

- Business & Public Services (BPS)
- Catering (CAT)
- Construction & Maintenance (CAM)
- Social Care & Inclusion (SCI)
- Student Support Services (SUS)
- Support for Teaching & Learning (STL)

Where roles have changed significantly as a result of the Restructure, it is recommended the job is formally evaluated by the Local Authority, in order to ensure that the level of remuneration is appropriate based on the roles, responsibilities and accountabilities.

In order for the job to be evaluated, the following documentation will need to be submitted to the Schools' HR Advisory Service:

- Job Description
- Person Specification
- Structure Chart (detailing lines of accountability and any Line Management responsibilities)

Following formal evaluation, the Local Authority will confirm the Grade, Job Family and the agreed Benchmark. This will be required by HR Services – traded team or your chosen payroll provider.

### **c. Pay protection**

#### **Teachers**

Where teaching staff are appointed to a lower salary post in the new structure as part of the restructure process, they will receive pay protection in accordance with the STPCD. Pay protection for Teachers will commence from the date that the revised structure is implemented this will usually be the start of the following term or if this is part way through the term pay protection will start and the beginning of the following term.

#### **Support Staff**

Where support staff are appointed to a lower graded post in the new structure as part of the restructure, they will receive pay protection for 2 years from the date of appointment if part of Derbyshire Package. Any school not on the Derbyshire Package will grant pay protection of a minimum of 2 years.

## **14.EQUALITIES – PUBLIC SECTOR EQUALITY DUTY**

The Public Sector Equality Duty was introduced by the Equality Act 2010. It requires schools to consciously consider how their policies or decisions affect people who share protected characteristics.

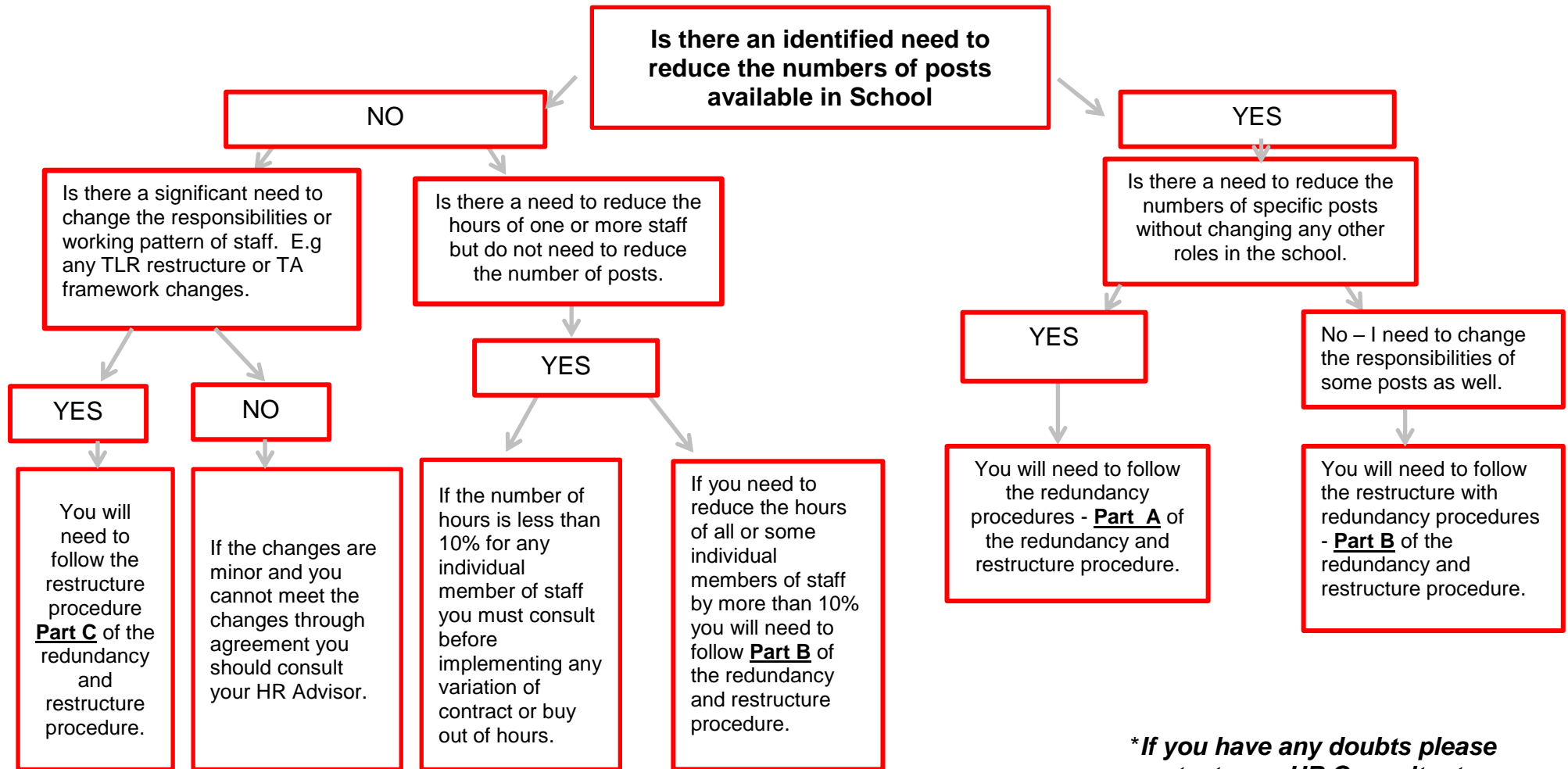
When taking an action, the school must consciously consider what the implications would be for the equality of staff, pupils and the members of the school community with protected characteristics.

The school should therefore consider equality implications during the redundancy and restructure process.

Before making a decision with regard to a final staffing structure, the school should undertake an equality Impact assessment in order to:

- assess whether there may be any resulting risks to, or adverse effects for, pupils with protected characteristics.
- consider how such risks or effects may be eliminated.

## Flow Chart to determine whether to follow the redundancy/ restructure procedure or both\*



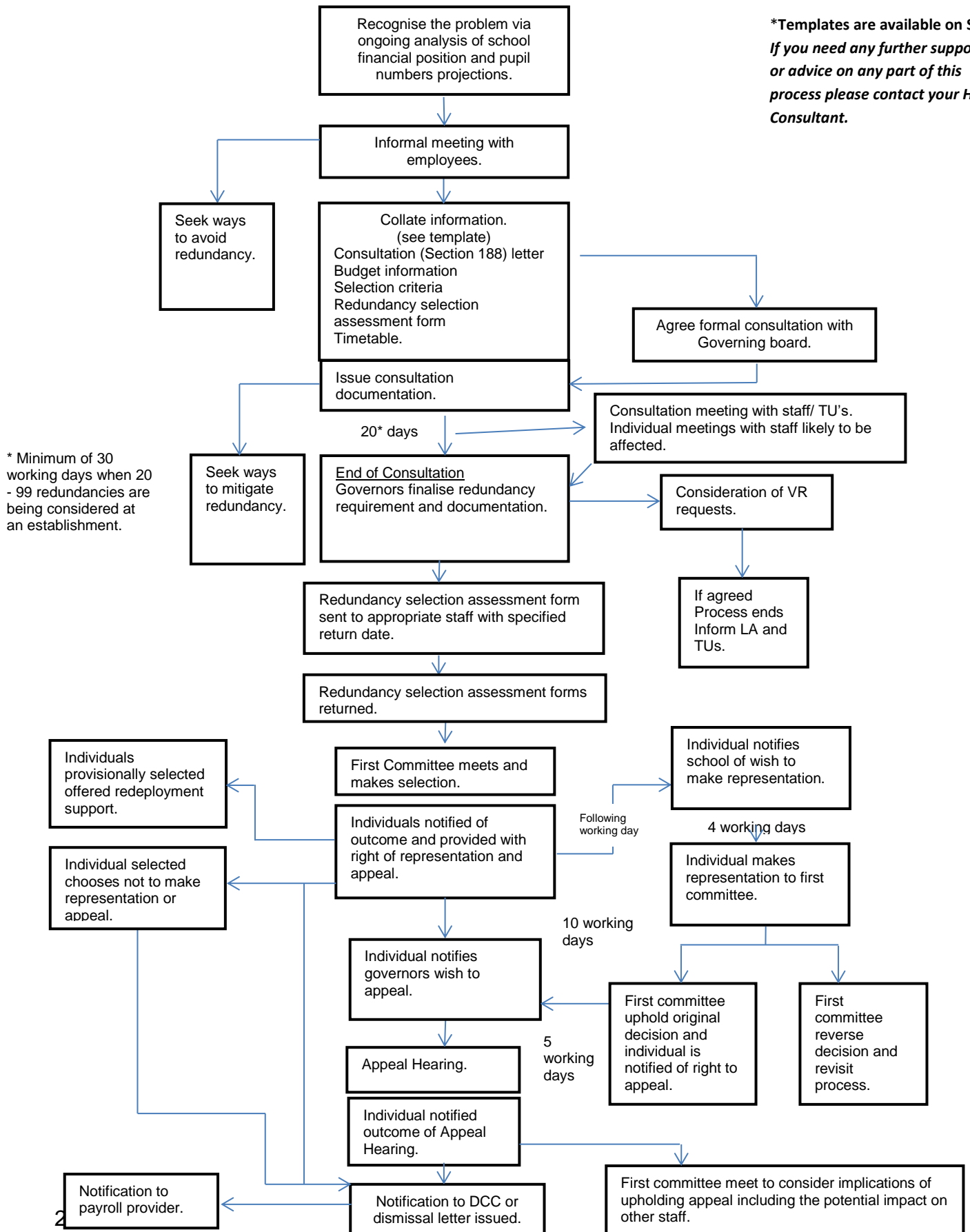
***\* If you have any doubts please contact your HR Consultant***

**PART A**  
**REDUNDANCY PROCEDURE**  
**ONLY**  
**(i.e., Reduction of**  
**Headcount only)**

# PART A - FLOWCHART

## REDUNDANCY PROCEDURE

**\*Templates are available on S4S.  
If you need any further support or advice on any part of this process please contact your HR Consultant.**



## a. Definition

The statutory **definition of redundancy** is found in section 139 of the Employment Rights Act 1996.

This policy refers the part of the act which says that an employee who is dismissed shall be taken to be dismissed by reason of **redundancy** if the dismissal is wholly or mainly attributable to the fact that the requirements for employees to carry out work of a particular kind, or in that place have ceased or diminished.

The expression "work of a particular kind" refers to the work, not the post holder. In schools and academies, work of a particular kind may be subject specific, but not always. It will depend on the facts. For example if the employer has a reduced need to offer one subject matter but is choosing to offer another to replace it, it may not have a reduced need for employees if it is shown that the employees carrying out the work to be replaced can also teach the subject which replaces it, and the employer has the power within their contract of employment to require them to do so.

The expression "work of a particular kind" does not refer to the employment status (i.e., full time or part time) of the employees whose work it is.

The critical issues are, therefore, whether there is a reduced demand for employees to carry out work and whether that is the reason for the employees' dismissals.

Whenever a reduction in staffing is contemplated it is reasonable to consider whether the structure remains appropriate and where the reduction in staff also requires roles to be changed, departments or layers of management to be amalgamated (or other significant re-organisation) then a proposal to restructure may be necessary and PART B of this procedure should be followed.

## b. Summary Redundancy Procedures and timescales

The specific actions and timescale, which the Governing Board or delegated committee must carry out include:

<b><u>Action</u></b>	<b><u>Timescale – Working Days</u></b>
Budget and Curriculum Planning.	As early as practicable/on-going.
Discussions with Governing Board.	
Informal discussions and consultation with staff, Trade Unions and Professional Associations and HR Consultants, Schools HR Advisory Service, DCC.	As early as practicable/on-going.
Staff meeting regarding alternatives to redundancy.	As early as practicable/on-going.

Governing Board confirms budget and curriculum plan, redundancy procedure and selection criteria, delegation of functions to a First Committee and Appeal Panel Committee.  
Issue formal Consultation (Section 188) Notice.

7 calendar days

Formal consultation meeting. ***More than one consultation meeting in the period may be necessary if there are a range of categories of employee or larger numbers at risk. The Governing board need to allow for the possibility of changing some of the processes or criteria as a result of consultation. If the change was not one universally sought by consultees, other staff may now wish to respond to the changed proposals.***

During the 20 working days (30 days required where 20 -99 redundancies at an establishment are made) consultation period. (No earlier than 10 days following the issuing of the formal consultation [Section188] notice)

Governing Board meets to consider all of the representations made during the consultation and agrees the final staffing structure and associated redundancy selection process and paperwork.

20 working days (30 days required where 20 -99 redundancies at an establishment are made)

Confirmation of the outcome of the consultation and the procedure and redundancy criteria and any amendments following consultation is published and circulated to all relevant parties. A further meeting with staff to share this information may be necessary,

Following the meeting

First Committee meeting, identification of potentially redundant posts and employees.

Notification potentially redundant posts to employees including their right of representation.

1 working day

First Committee meeting to hear and consider representations of potentially redundant employees.

5 working days

Notification to employees of decision following their representations including, where appropriate, their right of appeal.	1 working day
Receipt of any appeals.	10 working days
Appeal Committee meeting to hear and consider appeals. (see Appendix 8 on S4S)	5 working days
Notification to employees of decision following their appeals and Notification to LA of employees identified for redundancy, where appropriate.	1 working day
Redundancy notices issued by LA or school, where appropriate	Within 10 working days of selection
Discussions with Redundant Employees regarding alternative employment.	Following initial selection and throughout notice period.
Notice period.	Subject to length of service, and conditions, of service

**The employee will normally be given notice following decision to confirm identification for potential redundancy. It is lawful for any appeal to take place in the notice period.**

**A suggested timetable for actions to help school identify the dates for the steps in the process is available as a template on S4S.**

**At any stage throughout the process an employee is entitled to consult and be represented by a Trade Union, or Professional Association, colleague or friend.**

#### **b. Redundancy Consultation**

The Governing Board recognises its duty to consult both informally and formally at the earliest opportunity with the **County Representatives** of the recognised Trade Unions and Professional Associations

In order to comply with the duty, the Governing Board must provide in writing to the County Secretaries of the relevant Trade Unions and Professional Associations the following information:

- the reasons for the proposals.
- current and projected budget information.
- the numbers and descriptions of employees it is proposed to dismiss as redundant.
- the total number of employees of any such description employed at the school.

- the way in which employees will be selected for redundancy.
- how the dismissals are to be carried out, including the period over which the dismissals are to take effect.
- the formula for determining severance pay.

This information will normally be sent electronically by e-mail. Where the school is a school maintained by Derbyshire County Council a copy of the Consultation (Section 188) Notice must also be sent to the Executive Director, Children's Services.

Where the Local Authority is the employer, the Governing Board must consult with, the Executive Director, Children's Services or their representative to ensure that the process followed adheres to the legal requirements for redundancy consultation. The Executive Director, Children's Services or their representative may exercise the right to be represented at any meeting when dismissal is considered.

Where it is proposed that there will be a reduction of headcount only and there are no other changes to the staffing structure, the Headteacher will alert employees to the situation at the earliest opportunity and explain the available strategies to affect the necessary reductions including providing them with access to a copy of the consultation (Section 188) notice and accompanying documentation as follows:

- Consultation (Section 188) letter
- Budget information
- Selection criteria
- Redundancy selection assessment form
- Timetable

A checklist of the documents that will need to be provided to Trade Unions in order to effectively consult with them is available on S4S.

A template document for schools to use as the basis of their consultation letter is also available on S4S.

The Governing Board will consult with relevant Trade Unions and Professional Associations on all potential options, procedure, and selection criteria, recognising that different or changing circumstances may result in the adoption of different strategies.

The Governing Board will identify strategies within its allocated budget to ensure that it is able to meet the National, and the School's, curriculum requirements and the agreed Post Ofsted or School Improvement Plan.

Where there is a reduction in headcount which will result in one or more redundancies and taking into account the requirements of the Post Ofsted or School Improvement Plan and the school's curriculum statement the Governing Board will identify essential posts, and in consequence posts which can be

considered non-essential in order to meet the curriculum, pastoral and management needs of the School.

The criteria for determining whether a post is essential or not, might be that the post, and therefore the post holder, provides a key leadership and management role in the school at a senior level (usually Headteacher or Deputy Headteacher) or provides a lead role in a curriculum or pastoral area which is required in order to meet any statutory requirements or those of the Schools Post Ofsted or School Improvement Plan.

All posts which can be considered non-essential in order to meet the curriculum, pastoral and management needs of the school as defined in the School Improvement Plan will be considered in the context of the staffing structure agreed and published by the Governing Board. This staffing structure may need to be reviewed if a reduction in posts is contemplated.

The Governing Board is committed to the use of a fair, consistent and non-discriminatory selection procedure and will define the selection criteria to be used to identify those staff selected to fill posts in the staffing structure and therefore postholders where no post is available and are therefore selected for redundancy. The redundancy criteria advice set out in Appendix C of this policy will be utilised in determining the redundancy criteria.

### **c. Formal Consultation**

Formal consultation does not start until the Governing Board provides a Consultation Notice (and HR1, if applicable) in writing to County representatives of **all** the recognised Trade Unions and Professional Associations which will include:

- the reasons for the proposals.
- full budget details including cost of each structure and future financial projections.
- the number and descriptions of employees it is proposing to dismiss as redundant.
- the rationale for choosing the categories of employees.
- the total number of employees of any such description employed at the school.
- the way in which employees will be selected for redundancy.
- how the dismissals are to be carried out, including procedure, selection criteria and a timetable for the procedure over which the dismissals are to take effect; and
- the formula for determining redundancy payments.
- arrangements for reasonable time off with pay to seek alternative work or to make arrangements for training.
- curriculum plan and/or current and proposed structure charts as appropriate.

Consultation will cover the above issues and also ways of:

- avoiding dismissals.
- reducing the number of employees to be dismissed.
- mitigating the effects of dismissals.

The Headteacher will alert employees to the situation at the earliest opportunity and explain the available strategies to affect the necessary reductions including providing them with access to a copy of the Consultation (Section 188) Notice. This will normally be done through a staff meeting.

Please refer to section 11(b) in relation to individual consultation which will need to be adhered to.

The Headteacher will arrange to meet with recognised Trade Unions. Staff and Unions may submit observations/responses in writing.

Individuals will be consulted about impending redundancies at the earliest opportunity; be kept informed as fully as possible, and consulted on ways of avoiding redundancy, selection methods and possible alternative work.

Consultation will take place with the Trade Union(s) appropriate to the employees affected, whether or not any of the employees are Trade Union members. "Employees affected" means employees who are at risk of redundancy and those affected by measures associated with the redundancies e.g., employees taking on re-allocated work.

Employees on maternity/adoption leave, parental leave, shared paternity leave, long term sickness absence, secondment and career breaks will also be formally consulted, and appropriate arrangements put in place, e.g., inviting them to meetings, sending hard copies of the information to home addresses, visiting employees at home or communicating through appropriate representatives. These employees may not have access to the usual electronic communication methods and separate arrangements will need to be made to ensure effective consultation.

The number of informed individual and collective meetings throughout the formal consultation process should be appropriate to the scale and weight of change proposed to ensure that employees and Trade Unions are given sufficient opportunities to consider the proposals, ask questions and suggest alternative options.

The County Secretary (or representative) of Professional Association and Trade Unions should be invited to formal consultation meetings and employees are entitled to be represented by a Trade Union representative or a work colleague at individual meetings.

The Headteacher will keep a record of dates, time of meetings, details of attendees and notes of the meetings with staff and key points.

During the consultation period it is good practice to provide all staff with a Questions and Answers document.

These requirements also apply when it is proposed to terminate contracts and offer re-engagement in order to implement changes in terms and conditions on which it has not been possible to reach agreement.

The Governing Board will:

- consider any representations made by the Trade Unions and Professional Associations.
- reply to the representations in writing and if rejected give detailed reasons for rejection.

All the possibilities of securing reductions will be examined.

After discussions with all employees, the Headteacher will proceed to more detailed discussions with the employees likely to be affected.

If after these consultations, the school is unable to meet the required staffing reductions through voluntary means the Headteacher will report the position to the Governing Board and where applicable, the Strategic Executive Director, Children's Services or their representative.

#### **e. Selection Procedure**

At the end of the Consultation period, The Governing Board will, if required delegate to its First Committee, consisting of three of its members, the consideration of voluntary options which may be formally requested at the end of the consultation. In a maintained school any requests for **voluntary redundancy must be discussed with the Local Authority before any agreement can be reached.**

This Committee will also be delegated the responsibility for the application of its agreed redundancy criteria, identify redundant posts and post holders and hearing any written and/or oral representation from individuals. The First Committee will be advised by the Headteacher. Where the Local Authority is the employer the Executive Director, Children's Services or their representative may attend the meeting to offer advice.

For any redundancy dismissals in relation to a maintained school, the Local Authority will need to approve the payment of the redundancy costs. The Executive Director, Childrens Service will need to be assured that all the conditions have been met for a payment to be made.

The Governing Board will co-operate with the Local Authority in operating a countywide redeployment procedure in relation to employees of maintained schools.

#### **f. First Committee Meeting**

The First Committee will meet to identify redundant posts and post holders following the application of its agreed redundancy criteria and taking into account the provisions of the Protection from Redundancy (Pregnancy and Family Leave) Act 2023 as outlined in Paragraph 3.

The First Committee will, by the next working day, notify in writing the employees identified and the relevant Trade Unions and Professional Associations of their intention to make their post redundant and the right of the employees to make written and/or oral representation to the First Committee.

The Executive Director, Children's Services or their representative will be asked to make arrangements for individual employees to discuss possible vacancies and measures that are available to mitigate the consequences of redundancy.

#### **g. Representations to the First Committee**

The employee(s) will receive at least 5 working days' notice of the meeting and will be informed in writing of the place, date, time and purpose. The employee will be asked to confirm whether they wish to make representations and whether they will be accompanied and by whom.

The First Committee will consider any written and/or oral representations before reaching a decision and will inform in writing all employees concerned and relevant Trade Unions and Professional Associations of their decision by the next working day and, where applicable, the right of appeal.

Individuals will be advised in writing of the outcome and reminded of the deadline for registering an appeal.

In the event of an appeal against the decision of the First Committee, this must be made in writing to the Clerk of the Governing Board or nominee setting out the grounds of the appeal within 10 working days of the Committee's decision.

Should an employee not make representations to the first committee this does not negate their right to appeal.

#### **h. Appeals**

Any appeal will be heard by an Appeal Committee consisting of the Governing Board, excluding all members of the First Committee and all other Governors involved in the decision or who have declared an interest which might influence the outcome.

The Appeal Committee will normally have 3 or more members. If the Governors identify that there will be insufficient Governors available to provide 3 for the First Committee and at least the same number, preferably more for the Appeal Committee then it may be necessary to elect 2 Governors for the First Committee. This will only be applied in exceptional cases when the number of

eligible Governors is severely constrained by issues like declarations of interest or illness, or where the Governing Board is carrying vacancies.

The meeting will be called within 5 working days of receipt of the formal appeal notice, or by mutual agreement as soon as practicable thereafter. The employee will be informed in writing of the place, date, time and purpose of the meeting.

The employee will be entitled to attend the Appeal Committee with a Trade Union or Professional Association representative or friend who may present the appeal on behalf of the employee.

Where the Local Authority is the employer, the Executive Director, Children Services or representative is entitled to attend the meeting for the purpose of offering advice to the Appeal Committee.

The Appeal Committee may uphold the appeal or confirm the original decision.

An appeal decision by the Appeal Committee will be final.

The Appeal Committee will determine the appeal and inform the individual employee, relevant Trade Unions and Professional Associations and Local Authority in writing of its decision by the next working day.

**i. Notification of Redundancy**

Where the Local Authority is the employer, the Governing Board will inform the Local Authority in writing of its decision, the reason for the decision, and the date of its implementation.

The Local Authority is under a duty, where appropriate, to issue a notice of dismissal within 14 calendar days of being notified by the school of the decision.

In all cases the school will notify the payroll provider of the employees who are leaving the school and inform them that the termination is on the grounds of compulsory or voluntary redundancy.

**j. Conclusion of Process/ Final stages**

At the conclusion of the process the school will continue to try and identify ways of mitigating any compulsory redundancies and should this be successful may withdraw a notice of redundancy at any time up until the termination date.

The school has a statutory responsibility to support any individual employee who has been selected for redundancy to secure alternative employment. This will include offering them any suitable alternative work that becomes available in school, enabling them to access the redeployment support provided by the Local Authority/Employer, offering suitable training opportunities and allowing reasonable time off to seek alternative work and attend interviews.

Under the Redundancy Payments (Local Government) (Modification) Order 1983, if an employee selected for redundancy receives an offer of employment in Local Government or certain related bodies prior to leaving, which commences within four weeks of their last day of service with the school, they would not be entitled to the redundancy payment. Employees will be asked to certify that they have not received such an offer before the payment can be made.

Supply agencies are not employers listed under the Redundancy Payments (Local Government) (Modification) Order 1983, but supply work directly with a school will fall under these provisions. Employees should check with the recruiter whether these provisions apply.

Where the Local Authority meets the cost of the redundancy payment approval will be required from the Executive Director, Childrens Services before the redundancy payment will be made. Wherever possible the redundancy payment is paid into the employee's bank account on the pay date following the termination.

# **PART B**

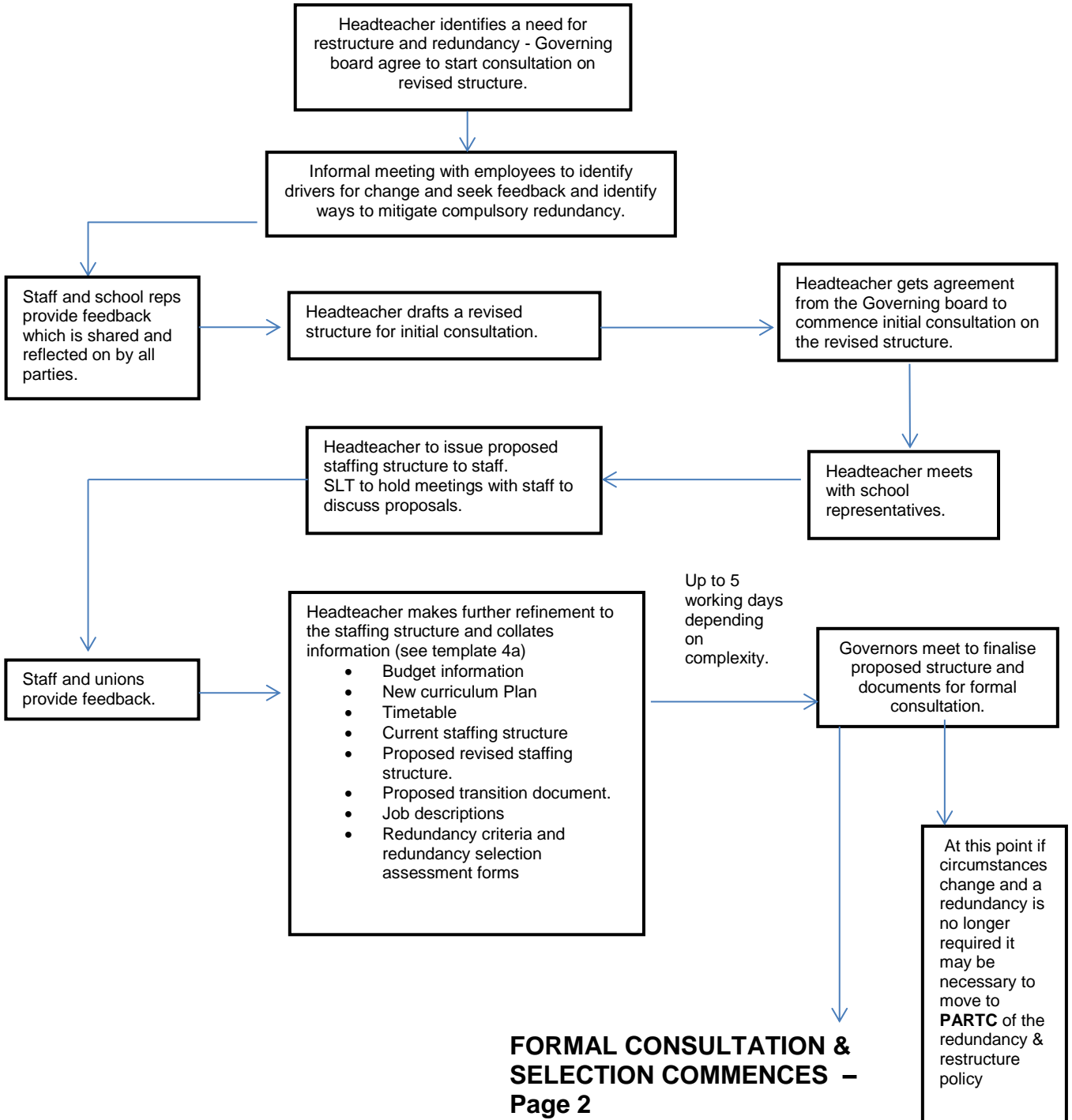
## **RESTRUCTURE WITH REDUNDANCY PROCEDURE**

**PART B – FLOW CHART\***

**RESTRUCTURE WITH REDUNDANCY**

**INFORMAL DISCUSSIONS**

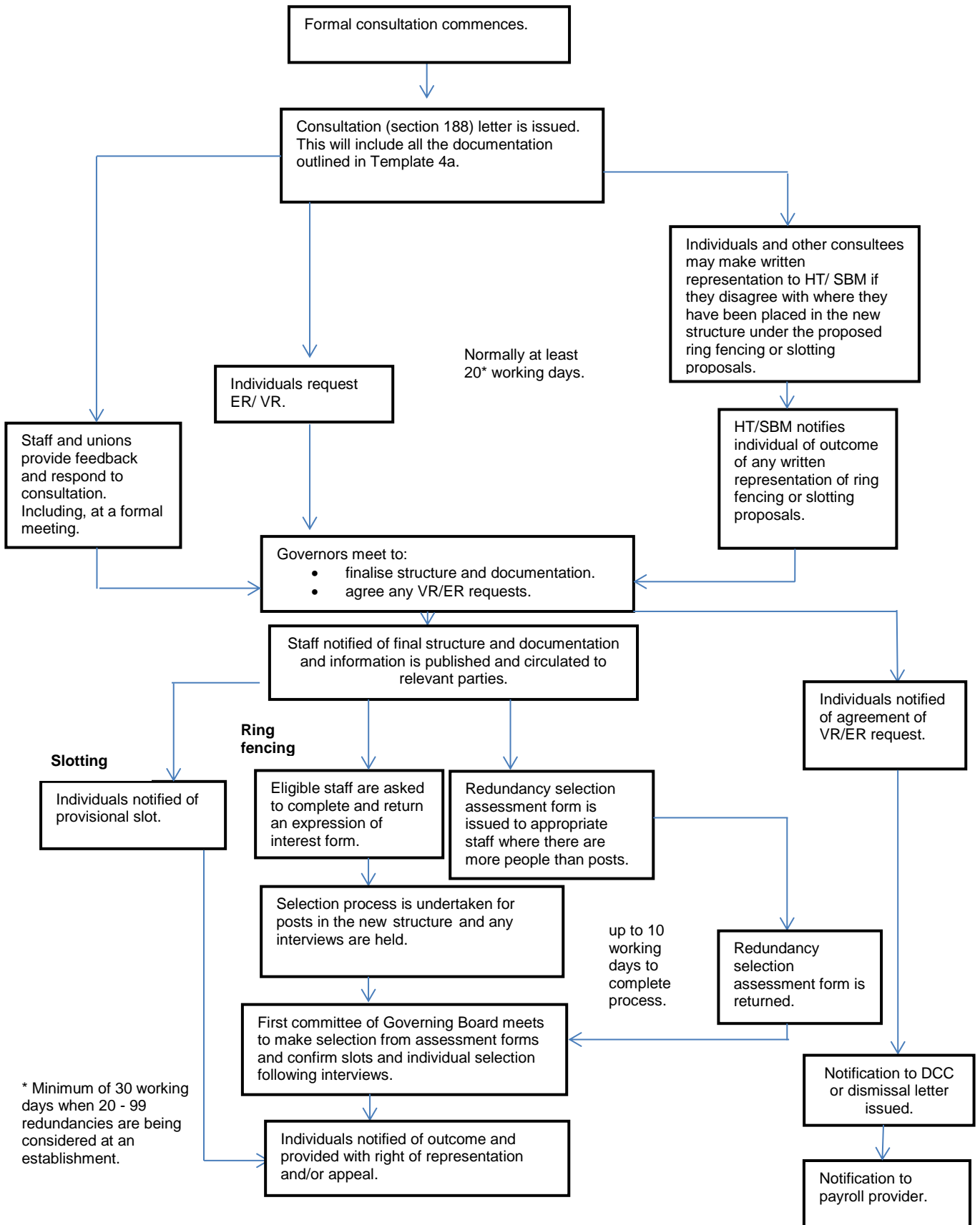
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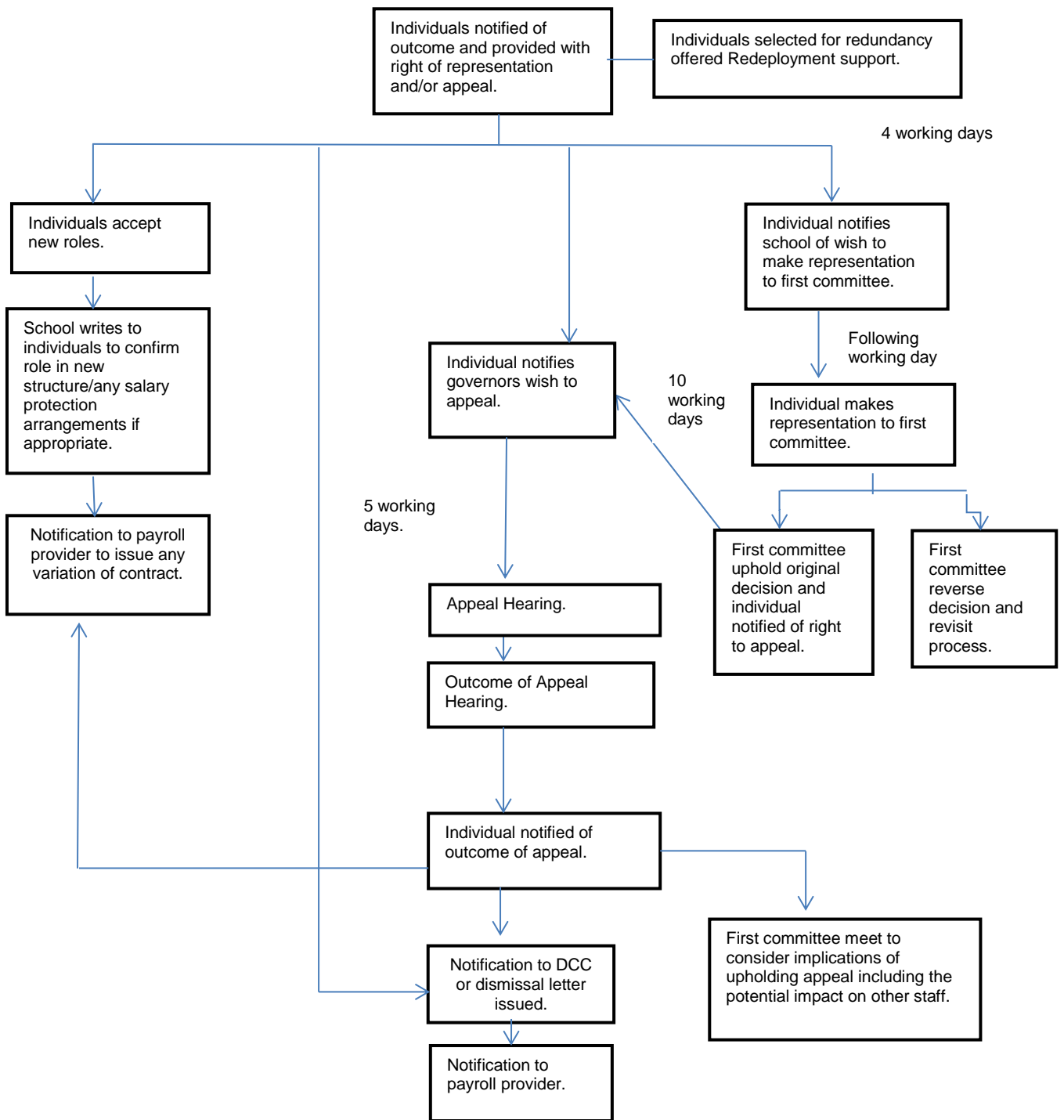
**FORMAL CONSULTATION & SELECTION COMMENCES – Page 2**

*\*Template are available on S4S. If you need any further support or advice, please contact your HR Consultant.*

## FORMAL CONSULTATIONS & SELECTION (Page 2)



## APPEALS PROCESS (Page 3)



## **a. Definition**

It may be necessary to review the staffing structure of the school to enable the school to meet its long-term and short-term strategic goals. The Governing Board will take a whole school strategic approach to determine the overall staffing structure required to meet the current and future needs of the school and all elements of the school staffing structure will be considered.

In some cases the review of the staffing structure may result not only in a change of responsibilities and deployment to alternative roles but also a reduction in the number of posts required. In this situation the restructure and redundancy process are anticipated to run concurrently.

Where it is assessed at the outset that the reduction in staff required cannot be achieved by identifying surplus capacity in certain job roles, where the type and scale of the reduction proposed requires the roles to be changed, departments or layers of management to be amalgamated (or other significant re-organisation) then a proposal to restructure may be necessary in conjunction with a consultation on potential compulsory redundancies.

Any review of the schools staffing structure must be conducted with a view to ensuring that deployment of all staff and the allocation of responsibilities and duties is effective and focused on teaching and learning to raise standards. All staff and county representatives of recognised Professional Associations/Trade Unions must be consulted during the review.

The Headteacher is under a duty to advise and assist the Governing Board in conducting the review and preparing the implementation plan.

Paragraph 13 page 16 provides more guidance on managing a restructure.

## **b. Consultation on proposed new structure.**

The Governing Board recognises its duty to consult both informally and formally at the earliest opportunity with the **County Representatives** of the recognised Trade Unions and Professional Associations.

Where the Local Authority is the employer, the Headteacher will inform the Local Authority at the earliest opportunity of the need for staffing restructure and/ or where necessary staffing reduction, including redeployment, in order that the Executive Director, Children's Services or their representative may exercise the right to be represented at any meeting when dismissal is considered.

Where the Local Authority is the employer, the Executive Director, Children's Services or their representative will need to be given the opportunity to ensure that the Governing Board adheres to the legal requirements for redundancy consultation where required.

Where it is proposed that there will more fundamental changes to the staffing structure e.g. changed or new roles are to be introduced in the school along with

a reduction in the numbers of staff; there will need to be **genuine consultation** with staff to develop the new staffing structure.

When designing a new structure which will change roles and responsibilities, the school will engage in constructive consultation with trade unions and staff.

A suggested timetable for actions to help the school identify the dates for the steps in the process is also available on S4S.

#### Setting the scene and gaining input from staff.

The Headteacher will start this process by holding an Informal meeting to outline the plans and consultation process to school union representatives with a view to seeking agreement on the process.

At the earliest opportunity all staff will be informed, preferably in writing of the drivers for change and any other contextual information affecting future school organisation – e.g., legislation, building developments, financial information and budget forecasts, available resources, pupil projections. Staff will be invited to discuss strategies to address the situation and given the opportunity to provide feedback either individually or collectively as a team. The Headteacher will arrange an informal meeting to outline plans and consultation process to school union representatives with a view to seeking agreement on the consultation process and time scales.

Discussions should take place with staff in their teams and staff should be given the opportunity to provide open or confidential feedback. Following a short period of discussion and feedback; the Headteacher will need to consider all feedback and use it to refine the restructuring vision for the school. The Headteacher may wish to hold further preliminary discussions with particular individuals/staff groups, utilising any established consultation mechanisms, including with trade union representatives.

#### Refining the restructuring vision.

When all information has been assembled and any preliminary discussions have been conducted the Headteacher will formulate a draft staffing structure to be put to the Governing Board for approval as a basis for initial consultation to seek further feedback/views from staff/unions on the draft structure.

When drafting a proposed Staffing Structure, the information to be considered by the Governing board will include:

- rationale for staffing structure review, the vision and pressures for change, in relation to meeting the current and future aspirations/needs of the school,
- old structure diagram and new
- existing and new job titles, job descriptions and person specifications. For support staff posts these should clearly indicate the hours, the grade (for new posts they will need to be matched to existing job families and

profiles or may need to be evaluated.) and the working weeks. For TLR post holders the job description need only cover the aspects that attract the responsibility payment but should include levels of responsibility payments and an indication of any initial assessment of management time attached to the role. For all posts the job description should cover line management responsibility along with key responsibilities of the role, not detailed tasks.

- posts which are new, posts which are largely unchanged and either slotted to existing post holders or subject to redundancy selection where there are more people than posts and which are a combination of several responsibilities previously in the structure where the new role will be ring-fenced to those post holders. A transition document, (*a template is available on S4S*) may be used to capture this information. The principles outlined in paragraph 12 will be used to complete the transition document.
- whether more senior staff, not appointed to posts at current level, will be considered for posts at lower grade (to be determined on a case by case basis with help from HR, depending on the level of difference in role, responsibilities, salary).
- safeguarding arrangements. The current STPCD defines the provisions for teachers. Support staff will receive pay protection for 2 years from the date of appointment if part of Derbyshire Package. Any school not on the Derbyshire Package will grant pay protection of a minimum of 2 years.
- in principle safeguarding will apply when an employee will receive a lower salary as a result of a restructure, unless they decline a suitable post which attracts a higher salary.
- full budget details including the cost of each structure (new one with and without safeguarding costs) and future financial projections.
- full budget breakdown showing previous year's expenditure, projection for following year, section 52 outturn statement, financial year to date statement & all other financial information usually included with the consultation (188) letter, figures with and without proposed savings and changes to structure.
- draft Consultation (188) letter (&HR1 if necessary) including where reduction can be achieved by application of redundancy selection criteria (to be included) and where the restructure is required, necessitating interviewing—in process. Information on pools of staff at risk
- redundancy selection criteria and a redundancy selection assessment form. See Appendix C for further guidance on developing and measuring staff against appropriate redundancy selection criteria.
- schedule for interviews for discussion with Governors and to enable governors to co-ordinate any Governor input.
- curriculum plan and class structure/sizes. (Indicate if there is some flexibility needed here, until the outcome of voluntary options etc. is known)

The Governing Board should consider carefully all of the information available and may wish to make alterations.

If the Governing Board make alterations, the Headteacher **may** again want to informally seek further feedback/views from staff/unions on the draft plans, before finally submitting to the Governing Board for final approval for final consultation in which case the Headteacher will write to all staff (including those that are absent, seconded, etc.) and county representatives of recognised trade unions, on behalf of the Governing Board, to advise them of:

- the current and the draft proposed staffing structure
  - the purpose and scope of review
  - to whom queries about the process should be sent
  - the timescale of the process, including the date of Governing Board meeting approving draft
  - the consultation meeting arrangements, to be held with staff & unions.
  - the date for written responses from staff/unions
  - the date of further Governing Board meeting to receive any consultation feedback following amendment to the draft structure (5 working days later\*)
- (\*these timescales are for a major restructuring and may be shortened following consultation with trade union representatives for more limited proposals)

The Governing Board will meet to receive feedback from both staff and unions and determine whether to approve or undertake further consultation if making significant amendments (the Governing Board will need the documents at least 7 calendar days in advance of the meeting).

Before approving the draft structure for formal consultation, the Governing Board may wish to make alterations.

When designing a new structure which will change roles and responsibilities, it is important to engage in constructive consultation with trade unions and staff.

A checklist of the documents that will need to be provided to Trade unions in order to effectively consult with them is available on S4S.

The documentation provided to staff must include all of the information provided to governors as set out above.

A template document for schools to use as the basis of their letter is available on S4S.

### **c. Formal Consultation**

When the Governing Board has approved the draft structure & potential restructure/redundancy procedure documentation for formal consultation, the head teacher adds the consultation (section 188) letter (*a template document is available on S4S*) and all the required attachments. (*a checklist of the documents*

*that will need to be provided to Trade Unions in order to effectively consult with them is available on S4S).*

A suggested timetable for actions to help school identify the dates for the steps in the process is available on S4S.

The formal consultation begins and the Headteacher will need to keep a record of all meetings with staff and key points. Individual staff who are directly affected by the proposals will be given the opportunity to meet in private, at least once. The Headteacher will arrange to meet with recognised trade unions. Staff and unions may submit observations/responses in writing. Oral submissions will also be taken. The Governing Body will be prepared to answer detailed questions on the budget situation and issues of staff deployment

The formal consultation will cover ways of:

- avoiding redundancy dismissals.
- reducing the number of employees to be dismissed on redundancy grounds.
- mitigating the effects of redundancy dismissals.
- staff making representations against provisional matching and ring-fencing recommendations.

The formal consultation does not start until the Governing Board provide a Consultation (Section 188) Notice (and HR1, if applicable) in writing to County representatives of all the recognised Trade Unions and Professional Associations which will include:

- the reasons for the proposals.
- the formula for determining redundancy payments.
- the arrangements for reasonable time off with pay to seek alternative work or to make arrangements for training.
- full budget details including cost of each structure (new one with and without safeguarding costs) and future financial projections including the section 52 outturn statement.
- current and proposed structure charts.
- proposed Job Titles, levels of responsibility payments (no names) and an indication of any initial assessment of management time. Existing job descriptions and person specifications should be made available wherever possible.
- proposed line management responsibility.
- proposed transition document indicating those posts which are new, those posts which are largely unchanged and therefore may be slotted to existing post holders, those posts which are a combination of several responsibilities previously in the structure and may be ring fenced to a number of existing post holders and any posts where there are less posts than current post holders and may be subject to redundancy selection procedure via a skills audit process. The proposed method of selection should be included.

- current and proposed job descriptions and person specifications
  - where Single Status applies new support staff posts will need to be matched to existing profiles & job families and may need to be evaluated.
  - teachers' job descriptions may need to cover only the aspects of the post that attract the responsibility payment.
- safeguarding arrangements
  - current STPCD provisions will apply for teachers.
  - Support staff will receive pay protection for 2 years from the date of appointment if part of Derbyshire Package. Any school not on the Derbyshire Package will grant pay protection of a minimum of 2 years.
- proposed selection criteria where redundancy selection is required and a timetable for this procedure.
- proposed curriculum plan and class's structure/sizes.
- information on the proposed pools of staff at risk.
- proposed redundancy selection assessment form where redundancy selection is required.
- invitation for staff to express an interest in any voluntary options and deadline.

As part of the formal consultation process staff will be given the opportunity to indicate which post(s) they should be considered for where their view differs from the Headteacher's/School Business Manager's as outlined within the draft transition document. In these circumstances, staff may make a written representation for the attention of the Headteacher/School Business Manager and a representative from the Governing Board, requesting that the original slotting and ring-fencing assessment be reviewed. The Headteacher/School Business Manager and nominated Governing Board representative will consider all representations and provide individual written responses before finalising the slotting and ring-fencing arrangements.

Individuals and unions will be consulted about impending redundancies at the earliest opportunity; be kept informed as fully as possible, and consulted on ways of avoiding redundancy, selection methods and possible alternative work.

The Headteacher will keep a record of all meetings with staff and key points. Individual staff who are directly affected by the proposals may wish to meet with the Headteacher. The Headteacher will arrange to meet with recognised trade unions. Staff and unions may submit observations/responses in writing.

The Governing Board will:

- consider any representations made by the Trade Unions and Professional Associations.
- reply to the representations in writing, and if rejected, give detailed reasons for rejection.

Consultation will take place with the Trade Union(s) appropriate to the employees affected, whether or not any of the employees are Trade Union members.

“Employees affected” means employees who are at risk of redundancy and those affected by measures associated with the redundancies e.g., employees taking on re-allocation work.

Employees on maternity/adoption leave, parental leave, shared paternity leave, long term sickness absence, secondment and career breaks will also be formally consulted, and appropriate arrangements put in place, e.g., inviting them to meetings, sending hard copies of the information to home addresses, visiting employees at home or communicating through appropriate representatives. These employees may not have access to the usual electronic communication methods and separate arrangements will need to be made to ensure effective consultation.

The number of informed individual and collective meetings throughout the formal consultation process will be appropriate to the scale and weight of change proposed to ensure that employees and Trade Unions will be given sufficient opportunities to consider the proposals, ask questions and suggest alternative options. The Headteacher will keep a record of dates, time of meetings, details of attendees and notes of the meetings.

The County Secretary (or representative) of Professional Association and Trade Unions should be invited to formal consultation meetings and employees are entitled to be represented by a Trade Union representative or a work colleague at individual meetings. The meetings held during the consultation period will hear consultation responses to the re-structure **and** the redundancy proposal. Oral submissions are taken as well as those provided in advance. The School Leadership should be prepared to answer detailed questions on the budget situation and issues of staff deployment.

#### **d. Individual Notification**

Any employee or groups of staff where the area of work they undertake is identified as being **in scope** of any reductions will be advised either collectively or individually **before** any staff meeting. Please refer to section 11(b) in relation to individual consultation which will need to be adhered to.

#### **e. Voluntary Redundancy**

After discussions with all employees, the Headteacher will proceed to more detailed discussions with the employees who have expressed an interest. All the possibilities of securing reductions will be examined.

#### **f. Agreeing and Implementing the New Structure**

In accordance with the agreed timeline The Governing Board will meet to finalise the revised structure. The Consultation & meeting notes will be issued to the Governing Board 7 calendar days before the Governing Board meeting. The Headteacher should provide to the meeting, the draft structure, showing any amendments proposed by Headteacher as a result of consultation, plus any proposed changes not incorporated and the reasons why.

The Governing Board will consider the outcome of consultations and may:

- I. agree to adopt the draft structure with any amendments proposed as part of the consultation accepted.
- II. agree to adopt redundancy procedure proposals without any amendment or with changes accepted by staff during consultation.
- III. propose amendments to either/both process(es) which have not been the subject of consultation.

Any revisions should be issued to staff and unions in writing. If there are amendments which have not been consulted upon, or if there are unresolved issues, the Governing Board must propose a further period of consultation. This should be notified in writing to staff and unions, with timescale for considering the results of further consultation (no less than one week). It is likely that the Governing Board meeting will take place approximately 10 working days after the original meeting called to consider approval of the structure. In this case there will be a further (maybe final) consultation meeting.

The Governing Board will need to finalise the procedure and consider any offers to access voluntary options. They must consider the effect on the re-structure and redundancy procedure of agreeing any changes.

The Governing Board meeting approves the final draft of new Staffing Structure and accompanying documentation. The Governing Board will agree the method of communication to staff and unions, note the implementation process and agree any governor involvement. The Headteacher will then circulate documentation which has been agreed following the period of consultation to all staff.

The Headteacher:

- writes to staff who requested voluntary alternatives to the implementation of compulsory redundancies informing them of the Governing Board's decision.
- writes to any staff with a slotted post, where there is no competition for the post, and secure their acceptance of the post.
- writes inviting relevant staff to interview for new posts which are a combination of current roles. A template form which can be sent to staff to seek any expressions of interest in relation to the posts that they are eligible to be considered for is available on S4S. Interviews should be held for any pools of staff for ring fenced posts, starting with the most senior posts.
- issues redundancy selection assessment form to any employees subject to redundancy selection criteria.

If amendments which have not been consulted upon, or if there are unresolved issues, the Governing Board will propose a further period of consultation. This will be notified in writing to staff and unions, with the timescale for considering the results of the further consultation (no less than one week). It is likely that the

Governing Board meeting will take place approximately 2 weeks after the original meeting called to consider approval of the structure.

At the conclusion of the Governing Board meeting which approved the final version of the new Staffing Structure and accompanying documentation, the Governing Board will follow the implementation arrangements above.

#### **g. The First Committee Meeting**

Once the restructuring process is complete the First Committee will meet when they will:

- receive an update on further staff movement.
- consider the outcomes of the interview process and identify staff at risk because they were not successful at interview.
- apply redundancy selection criteria to 'at risk' pool(s) where selection criteria is the method of selection within the restructure with redundancy procedure.

The Chair of the First Committee will, by the next working day, inform in writing those that have been selected for potential redundancy following application of the interview process or redundancy selection criteria of the outcome. The relevant Trade Unions and Professional Associations will be informed at the same time. All staff identified as being at risk of redundancy must be notified of their right of representation/appeal and redeployment support should be initiated by contacting the Schools' HR Advisory Service team of Derbyshire County Council.

Staff will receive written notification of the outcome of interviews, and the school will seek acceptance of post from successful candidates.

Staff affected by the re-structure, following final slotting, will be informed. All relevant staff will be informed of their rights of appeal. If the outcome represented a pay decision, the deadline for registering an appeal and the grounds for appeal is provided for in the school's pay policy and will be limited as the chance for challenge of JDs, salaries, etc. was available in consultation process.

The Executive Director, Children's Services or representative will be asked to make arrangements for individual employees at risk of redundancy to discuss possible vacancies and measures that are available mitigate the consequences of redundancy.

#### **h. Representations to the First Committee**

The Governing Board First Committee hears any representations from staff selected for redundancy. Where interviews have been held representations should be made to the First Committee and the chair of recruitment panel.

The employee(s) will receive at least 5 working days' notice of the meeting and will be informed in writing of the place, date, time and purpose. The employee

will be asked to confirm whether they wish to make representations and whether they will be accompanied and by whom.

The First Committee will consider any written and/or oral representations before reaching a decision and will inform in writing all employees concerned and relevant Trade Unions and Professional Associations of their decision by the next working day and, where applicable, the right of appeal.

Where an individual has been deselected following an interview process the Chair of the Interview Panel should be present at the representations meeting.

Individuals will be advised in writing of outcome and reminded of deadline for registering appeal.

In the event of an appeal against the decision of the First Committee, this will be made in writing to the Chair of the Governing Board or nominee setting out the grounds of the appeal within 10 working days of the Committee's decision. A copy of the appeal letter should be sent to the school for the attention of the Headteacher so that practical arrangements for the meeting can be co-ordinated.

#### **i. Appeals**

The Governing Board Appeals Committee must meet to hear any appeals made by staff affected by the restructure or selected for redundancy, where relevant.

A procedure which can be use by Governors when considering appeals is available on S4S.

Any appeal will be heard by an appeal committee consisting of the Governing Board, excluding all members of the First Committee and all other Governors involved in the decision or who have declared an interest which might influence the outcome.

The Appeal Committee will normally have more than 3 members. If the Governors identify that there will be insufficient governors available to provide 3 for the First Committee and at least the same number, preferably more for the Appeal Committee then it may be necessary to elect 2 Governors for the First Committee. This will only be applied in exceptional cases when the number of eligible Governors is severely constrained by issues like declarations of interest or illness.

The meeting will be called within 5 working days of receipt of the formal appeal notice, or by mutual agreement as soon as practicable thereafter. The employee will be informed in writing of the place, date, time and purpose of the meeting.

The employee will be entitled to attend the Appeal Committee with a Trade Union or Professional Association representative or friend who may present the appeal on behalf of the employee. The grounds for the appeal may be on the application of the redundancy selection criteria, or the flaws within the selection/interview process.

In maintained schools, the Executive Director, Children Services or representative will be entitled to attend the meeting for the purpose of offering advice to the Appeal Committee.

The Appeal Committee may uphold the appeal or confirm the original decision.

An appeal decision by the Appeal Committee will be final.

The Appeal Committee will determine the appeal and inform the individual employee, relevant Trade Unions and Professional Associations and Local Authority in writing of its decision by the next working day.

Where an appeal in connection with compulsory redundancy is **unsuccessful**, notice will be issued to the individual identified for compulsory redundancy.

Where an appeal is **successful** Governors will need to consider:

- the impact on other staff, i.e., where this places another employee at risk, then that employee will also have the right of individual representations and appeal.
- the impact on hearing schedules & Governor involvement.
- the impact on the whole process.

#### **j. Notification of outcome**

Those subject to re-structure will be notified of the outcome in writing and pay statements will be issued which will include any safeguarding information.

The Headteacher will arrange with the Local Authority/ payroll provider for new contracts and notices of dismissal to be issued as appropriate.

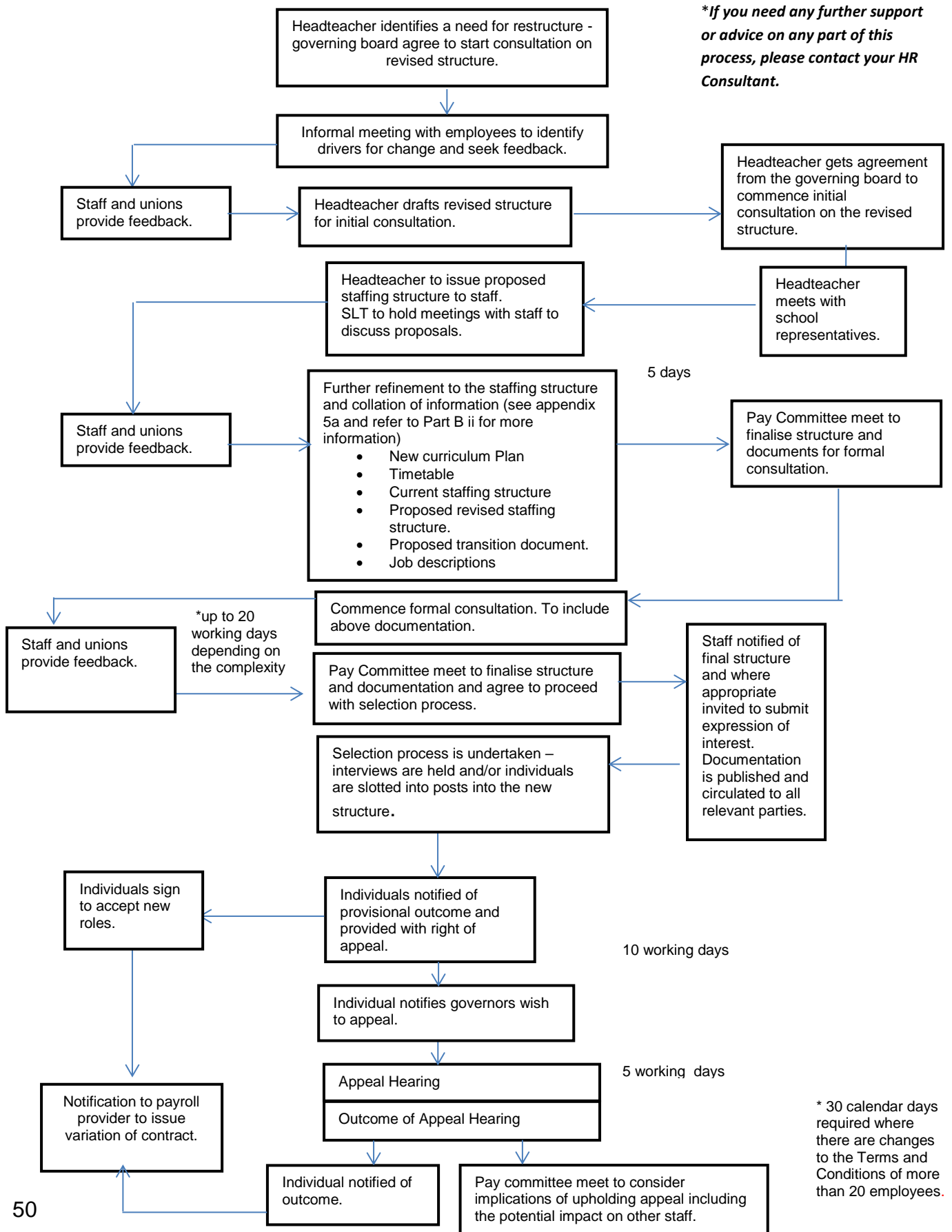
The school has a statutory responsibility to support any individual employee who has been selected for redundancy to secure alternative employment. This will include offering them any suitable alternative work that becomes available in school, enabling them to access the redeployment support provided by the Local Authority/Employer, offering suitable training opportunities and allowing reasonable time off to seek alternative work and attend interviews. Please see section 9 for information on redeployment.

The Local Authority is under a duty, where appropriate, to issue a notice of dismissal within 14 days of being notified by the school of the decision.

**PART C**  
**RESTRUCTURE ONLY**  
**(i.e., No Redundancy)**

# PART C – FLOWCHART

## Restructure Procedure – no redundancy



## a. Definition

Any review of the schools staffing structure will be conducted with a view to ensuring that the management and deployment of all staff and the allocation of responsibilities and duties is effective and focused on teaching and learning to raise standards. All staff and internal representatives of recognised Professional Associations/Trade Unions will be consulted during the review. The Headteacher is under a duty to advise and assist the Governing Board in conducting the review and preparing the implementation plan. A restructure on its own without a reduction in the number of jobs will not lead to redundancies.

## b. Consultation on proposed new structure

The Governing Board recognises its duty to consult both informally and formally at the earliest opportunity with the County Representatives of the recognised Trade Unions and Professional Associations.

Where the Local Authority is the employer, the Headteacher will inform the Local Authority at the earliest opportunity of the need for staffing restructure.

Where it is proposed that there will be more fundamental changes to the staffing structure e.g., changed or new roles are to be introduced in the school there will need to be **genuine consultation** with staff to develop the new staffing structure. *(a checklist of the documents that will need to be provided to Trade Unions in order to effectively consult with them is available on S4S).*

### Setting the Scene and gaining input from staff

At the earliest opportunity all staff will be informed preferably in writing of the drivers for change and any other contextual information affecting future school organisation – e.g., legislation, building developments, financial information and budget forecasts, available resources, pupil projections. Staff will be invited to discuss strategies to address the situation and given the opportunity to provide feedback either individually or collectively as a time. The Headteacher will arrange an informal meeting to outline plans and consultation process to school union representatives with a view to seeking agreement on the consultation process and time scales. *(a template letter for schools to use to send to staff to formally consult with staff on the restructure proposals is available on S4S.)* Where it is proposed to amend the terms and conditions of more than 20 employees it will be necessary to issue a Section 188 notice and provide for at least 30 calendar days of formal consultation. It is advised that where this is the case you seek further guidance from your HR advisory service.

*Template documents to support the restructuring procedures are available on S4S:*

- *an example of a document that schools can provide to staff to seek their feedback or any questions they wish to raise during the consultation process.*
- *an example of a document that Headteachers can use to outline the restructure proposals to staff.*
- *a form that can be used to record the issues that have been raised by staff during the consultation so that the response can be agreed and recorded along with any action taken.*
- *A suggested timetable for actions to help school identify the dates for the steps in the process.*

### Refining the restructuring vision

The Headteacher will seek feedback to refine the restructuring vision for the school and may wish to hold further preliminary discussions with particular individuals/staff groups, utilising any established consultation mechanisms, including with trade union representatives.

When all information has been assembled and any preliminary discussions have been conducted the Headteacher will formulate a draft staffing structure to be put to the Governing Board for approval as a basis initial consultation to seek further feedback/views from staff/unions on the draft structure.

The Headteacher will write to all staff \* (including those that are absent, seconded, etc.) and school representatives of recognised trade unions, on behalf of the Governing Board, to advise them of:

- rationale for staffing review, the vision and pressures for change, in relation to meeting the current and future aspirations/needs of the school.
- current and proposed structure including current and new job descriptions and person specifications.
- to whom queries about the process should be sent.
- the timescale for the process including the date of the Governing Board meeting approving draft.
- the consultation meeting arrangements to be held with staff & unions.
- the date for written responses from staff/unions.
- the date of further Governing Board meeting to receive any consultation feedback (1 week later\*\*

\*in the absence of a school representative, employees should be encouraged to contact a County representative.

\*\*these timescales are for a major restructuring and may be shortened for more limited proposals).

The Governing Board will meet to receive feedback from both staff and unions and determine whether to approve or undertake further consultation if making significant amendments (the Governing Board will need the documents at least 7 days in advance of the meeting).

Before approving the draft structure for formal consultation, the Governing Board may wish to make alterations.

### **c. Formal Consultation Process**

The following information should be made available to trade unions and staff as part of the formal consultation process, which will normally last 20 working days:

- Rationale for the proposed changes(s) and perceived benefits.
- Current and proposed structure.
- Implementation timetable.
- Proposed job titles, levels of responsibility payments (no names) and an indication of any initial assessment of management time.
- Proposed line management responsibility.

- Proposed transition document indicating those posts which are new, those posts which are largely unchanged and therefore may be slotted to existing post holders, those posts which are a combination of several responsibilities previously in the structure and may be ring fenced to a number of existing post holders.
- Current and proposed job descriptions and person specifications
  - Where single status applies new support staff posts will need to be matched to existing profiles & job families and may need to be evaluated.
  - Teachers' Job descriptions may need to cover only the aspects of the post that attract the responsibility payment.
- Safeguarding arrangements
  - Current STPCD provisions will apply for teachers.
  - Support staff will receive pay protection for 2 years from the date of appointment if part of Derbyshire Package. Any school not on the Derbyshire Package will grant pay protection of a minimum of 2 years.
- Full budget details including cost of each structure (new one with and without safeguarding costs) and future financial projections where this is a driver for the restructure.

Please refer to section 11(b) in relation to individual consultation which will need to be adhered to.

As part of the formal consultation process staff will be given the opportunity to indicate which post(s) they should be considered for where their view differs from the Headteacher's/School Business Manager's as outlined within the draft transition document. In these circumstances, staff may make a written representation for the attention of the Headteacher/School Business Manager and a representative from the Governing Board, requesting that the original slotting and ring-fencing assessment be reviewed. The Headteacher/School Business Manager and nominated Governing Board representative will consider all representations and provide individual written responses before finalising the slotting and ring-fencing arrangements.

The Headteacher will keep a record of all meetings with staff and key points. The Headteacher will arrange to meet with recognised Trade Unions. Staff and Unions may submit observations/responses in writing.

Employees on maternity/adoption leave, long term sickness absence, secondment and career breaks will also be formally consulted, and appropriate arrangements put in place, e.g., inviting them to meetings, sending information to home addresses, visiting employees at home or communicating through appropriate representatives.

The Headteacher may again informally seek further feedback/views from staff/unions on the draft plans, before submitting to the Governors Committee.

The consultation responses & meeting notes will be issued to the Governors committee 7 days before the meeting with the draft structure, showing any amendments proposed by Headteacher as a result of consultation, plus any proposed changes not incorporated and the reasons why.

The Governors Committee will:

- consider any representations made by the Trade Unions and Professional Associations.
- reply to the representations in writing, and if rejected, give detailed reasons for rejection.

#### **d. Agreeing and Implementing the New Structure**

The Governors committee will meet to consider the outcome of consultation and either:

- i) agree to adopt the draft structure with any amendments proposed as part of the consultation and accepted, or
- ii) propose amendments which have not been the subject of consultation.

If amendments which have not been consulted upon, or if there are unresolved issues, the Governors committee will propose a further period of consultation. This should be notified in writing to staff and unions, with timescale for considering the results of further consultation (no less than one week). It is likely that the Governors committee meeting will take place approximately 10 working days after the original meeting called to consider approval of the structure.

The Governors committee meeting will:

- approve the final version of the new Staffing Structure and accompanying documentation.
- agree communication to staff and unions which will include the final version of all documents subject to consultation.
- note the implementation process and
- agree any Governor involvement.

The Headteacher will write to any staff with a slotted post, where there is no competition for the post, and secure their acceptance of the post.

Interviews will be held for any pools of staff for ring fenced posts, starting with most senior posts.

The Headteacher will write to staff with outcome of interviews and seek acceptance of post from successful candidates.

Relevant staff will be informed of their rights of appeal and of the deadline for registering an appeal. In this case the grounds for appeal will be limited as the chance for challenge of Job Descriptions, salaries, etc., was available in consultation process.

#### **e. Appeals**

The Appeal Committee will normally have 3 or more members. If the Governors identify that there will be insufficient Governors available to provide 3 for the Pay Committee and at least the same number, preferably more for the Appeal Committee then it may be necessary to elect 2 Governors for the Pay Committee. This will only be applied in exceptional cases when the number of eligible Governors is severely constrained by issues like declarations of interest or illness.

The meeting will be called within 5 working days of receipt of the formal appeal notice, or by mutual agreement as soon as practicable thereafter. The employee will be informed in writing of the place, date, time and purpose of the meeting.

The employee will be entitled to attend the Appeal Committee with a Trade Union or Professional Association representative or friend who may present the appeal on behalf of the employee.

In maintained schools, the Executive Director, Children Services or representative will be entitled to attend the meeting for the purpose of offering advice to the Appeal Committee.

The Appeal Committee may uphold the appeal or confirm the original decision.

An appeal decision by the Appeal Committee will be final.

The Appeal Committee will determine the appeal and inform the individual employee, relevant Trade Unions and Professional Associations and the Local Authority in writing of its decision by the next working day.

**f. Notification of outcome**

Staff will be notified of the outcome in writing and pay statements will be issued which will include any safeguarding information.

The Headteacher will arrange with the Local Authority/payroll provider for new contracts to be issued as appropriate.

**Initial Knowledge, Skills and Experience Audit – Teachers  
(Name of School)**

Name		
Qualifications		
Please indicate your main, subsidiary and, if applicable, third subject	Main	
	Subsidiary	
	Third	
List any relevant management experience or qualification		
A Level / relevant level 3 subject specific qualifications studied		
List all the subjects you have taught in your teaching career		
List any other subjects you would feel comfortable teaching		
Any other relevant information including previous experience and knowledge		
If there is the opportunity to do so, I would be interested in being timetabled next year for:	1:1 intervention	Yes / no
	In class support	Yes / No
	Other – Please specify	

**PLEASE NOTE THAT THIS FORM IS REQUIRED TO ASSIST WITH THE APPROPRIATE DEPLOYMENT OF STAFF ACROSS THE SCHOOL. IT DOES NOT FORM PART OF ANY REDUNDACY SELECTION PROCEDURE.**

**Initial Knowledge, Skills and Experience Audit – Support Staff  
(Name of School)**

Name		
Qualifications – Appropriate to the role		
A Level / level 3 relevant subject specific courses studied		
Relevant Experience		
Transferable skills/ other relevant information		
<b>TEACHING SUPPORT ROLES ONLY</b>		
List all the subjects you have supported in your career		
List any other subjects you would feel comfortable supporting		
If there is the opportunity to do so, I would be interested in being timetabled next year for:	1:1 intervention	Yes / no
	In class support	Yes / No
	Other – Please specify	
Please indicate any aspirations or interest in any other employment opportunities		

**PLEASE NOTE THAT THIS FORM IS REQUIRED TO ASSIST WITH THE APPROPRIATE DEPLOYMENT OF STAFF ACROSS THE SCHOOL. IT DOES NOT FORM PART OF ANY REDUNDACY SELECTION PROCEDURE.**

***Please note that this approach is not supported by NASUWT***

Appendix B

## **Temporary Variation to Contract** **Mitigating Risk of Compulsory Redundancies**

### **Advice and Guidance**

The redundancy procedure includes the requirement for Governing Boards to consider a range of measures that may mitigate the risk of compulsory redundancies. It is recommended that the Governing Board consider offering staff the opportunity to request a temporary variation to reduce their contracted hours. If one or more staff express an interest and the variation is implemented this may secure sufficient saving to allow more time for natural movement of staff or other change in the funding/expenditure balance to resolve the situation.

In offering this opportunity to staff, Governors are advised to consider:

- The operational timetabling issues, with the quality of delivery to pupils as the prime consideration.
- The time frame for the reduction. It is recommended that this should be for a year.
- Clarifying to staff that if the situation worsens beforehand, or in a year, and there needs to be a redundancy, the payment to redundant staff will be calculated on their substantive contract, not the reduced hours.
- A timetable for when Governing Body and staff will discuss whether any extension to the variation should be considered. It is suggested that for variations running from 1 September to 31 August, this review takes place in January.
- What process will be followed if the school receives more funding before the end of the variation and the school could afford a return to the original contract for some of the staff who have accepted a variation. (The determining factors should be recorded, a list is suggested in the attached model letter).
- Ensuring that the specifics of the agreement are recorded in Governors' minutes.

In addition, it is advised that staff should be informed that any sickness or maternity benefits generated during the variation will be based on the reduced hours and that staff should check for themselves any potential effect on state benefits received and pension calculation. Staff should be advised to seek guidance from their professional association/union/independent financial adviser.

Once a potential redundancy situation is announced staff may get together to consider the variation option and bring a proposal to the Governing Board collectively. Governors are advised to do their best to ensure that some staff are not being put under pressure to comply with a group decision. All staff involved should individually write to the Governing Board before the close of consultation, expressing their willingness to accept the variation.

After the decision is made the staff should individually receive a letter confirming the details of what has been agreed with a copy for them to sign and return. A model is attached.

The Headteacher will also need to instruct the HR Services – Traded payroll team (or alternative provider of payroll) of the changes and ask for a variation to contract letter to be sent.

Date

**Private & Confidential**

Address

Dear .....

The Governing Board of ..... School met on the .....(date)..... to ratify the reduction in hours agreed by staff, to take effect from .....(date) ..... to .....(date). This will be implemented through a formal variation to contract. At the end of the variation period you will return to your substantive contract.

The Governing Board confirms that:

- should a redundancy situation need to be implemented, and staff who have accepted a variation to contract are made redundant, the payment will be calculated on the basis of their substantive contract.
- any sick pay or maternity pay generated during the variation will be calculated on the varied contract, operable at the time. There will be a review of the financial situation in \_\_\_\_\_ and any implications for future staffing levels discussed with staff. Any significant improvement in the school's financial situation, within the period of variance, will trigger consideration of whether the arrangement needs to continue. If any working time can be restored to those staff who have accepted a reduction, the Governing Board will formulate a proposal, advised by the Headteacher, based on a combination of factors:
  - a) staff expressed interests
  - b) curriculum delivery
  - c) specific student need
  - d) the reason for the improved budget
  - e) pressures already identified as affecting the quality of education and/or organisational effectiveness of the school.

Thank you for your co-operation and support for the school in managing its reduced budget.

Yours sincerely

Name  
Chair of Governors

## Redundancy Selection Criteria

There are many potential selection criteria which the Governing Board might adopt, but they should be objective, fair, reasonable, measurable, and non-discriminatory.

The Governing Board should consider fully the implications of any selection criteria and ensure that they do not discriminate against staff on the grounds of age, race, disability, religion or belief, gender reassignment, sexual orientation, sex or part-time status. In addition selection may be unlawful, under one or more of the discrimination statutes, where the selection criteria identified are indirectly discriminatory. This could occur when a provision of the process or selection criterion is applied, which puts a protected group at a particular disadvantage, and which cannot be justified.

The Governing board will ensure that the selection criteria does not unfairly disadvantage part-time staff. The Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 state that employers cannot treat part-timers less favourably than their full-time equivalents and cannot subject them to any disadvantage (or detriment) because of their part part-time status. The Governing Board may wish to take further advice where part-time staff are likely to be involved.

Care should also be taken to ensure that staff are not unfairly disadvantaged as a result of their participation in trade union activities. Particular attention should be paid to those staff who are officials of recognised trade unions and have time way from the classroom in accordance with their trade union duties.

It is common for the selection criteria to detail skills, training/qualifications and experience. The Governing Board will need to think about the fairness of each criterion that is proposed, when the staff member's access to the training, experience, skill development may have been determined by the school leadership. To minimise this, it is good practice for schools to inform staff of the areas that would be likely to form selection criteria, in any future redundancy, and to open as many opportunities to staff as possible.

For instance, when schools create/identify opportunities for staff to lead SIP initiatives, projects or change year groups, ensure reasonable consideration is given to the allocation of the opportunity amongst those who express an interest.

However, The Governing Board is responsible for the appropriate educational experience being delivered to pupils and the retention of staff that will enable this to be sustained, should be a key consideration in formulating selection criteria. These need to be as fair as possible but inevitably choices made earlier in a staff member's career or by the leadership, in the school's interest, will sometimes have an eventual effect on an individual's score, on the selection criteria.

What is important is that the leadership do not knowingly award opportunities to individuals in order to protect staff from a future staffing reduction process.

Suggested redundancy criteria are available on S4S. This list is not exhaustive. Model template redundancy selection assessment forms are available on S4S; these have been developed with the ACAS guidance in mind. Governors should use the templates to create a form which meets their needs. Governors must consider which, if any of the criteria they wish to use, taking into account the future needs of the school. It is recommended that Governors award points to criteria to reflect the relative importance of the criteria used. When developing the criteria Governors should attempt to ensure clarity and transparency in relation to the points that will be awarded against each criterion and provide staff with as much information as possible including examples where appropriate.

It should be noted that it has not been possible to reach collective agreement on the selection criteria and Professional Associations have raised particular objections to the use of sickness absence as a criteria.

Governors are strongly advised to consult with HR before finalising the redundancy selection assessment form for consultation

### **Guidance on the arrangement of formal meetings with staff involving Union/Professional Association representatives**

The arrangement of a formal meeting with a member of staff is a fairly occasional event. This will particularly be the case in small schools.

Such meetings are likely to be in connection with one of the Human Resources policies, e.g., Disciplinary Policy, Absence Management, Competence Procedure. When the need arises to meet with a member of staff in connection with such processes or to arrange a hearing, there is an entitlement for them to be accompanied by a chosen representative. This representative will usually be from one of the trade unions or teachers' professional associations.

Senior Leaders are advised to ask for the name/organisation of the representative, where possible, and make contact to ascertain their availability before setting dates and times. It can be very unsettling and disruptive to relationships, at an already difficult time, when a date is set and then has to be postponed owing to the unavailability of the representative:

The legal position is as follows (The Employment Relations Act 1999 Section 10, paragraph 4)

“If:

- (a) a worker has a right under this section to be accompanied at a hearing,
- (b) their chosen companion will not be available at the time proposed for the hearing by the employer, and
- (c) the worker proposes an alternative time which satisfies subsection (5),

the employer must postpone the hearing to the time proposed by the worker.

5 An alternative time must—

- (a) be reasonable, and
- (b) fall before the end of the period of five working days beginning with the first working day after the day proposed by the employer”.

Unions/associations are likely to quote this when they are presented with a date they cannot accommodate. The school will have no choice, at this point, but to make new arrangements. This can cause considerable inconvenience for everyone concerned. A further difficulty is likely to be caused because the legal requirement calls for the representative to set a new date, within 5 days, and this will probably not be convenient for other people involved.

It is best to try and avoid a difficult period where parties struggle to set a mutually suitable date, colleagues (and sometimes pupils) in service may suffer because of the delay and resentment may develop.

School leaders need to consider the perspective of the employee and their representative. Most employees would not expect to be called to a formal meeting, or any other management process, outside of working hours. The representatives themselves are sometimes employees of the union/association, who have scheduled working time, and branch officials are allocated particular times away from their 'day job' for their union duties. They may struggle to obtain release at other times.

It has been possible, on occasions, to arrange such hearings/meetings in the evenings but Headteachers should expect to be challenged if making such arrangements. If at all possible, meetings in working hours are also preferable because the participants are more likely to be able to contribute effectively, than at the end of the day.

When informed that a representative cannot attend a meeting and a considerable number of other stakeholders have been assembled (Headteacher, witnesses, HR Consultant, minute taker), Headteachers have sometimes challenged the union to send a different representative to facilitate the process and save the impact of further delay on the employee. This is not easy for some associations to accommodate. They may have an agreement where only an individual union representative is authorised to receive the details of the case and to act on the member's behalf.

Headteachers are advised to take these factors into consideration, in order to enable arrangements to be made in co-operative fashion. Alongside this guidance there has also been correspondence to the unions/associations seeking a similarly collaborative approach from their representatives. For instance, in recognising the requirement to co-operate with the process and offer a reasonable number of possible dates when meetings are needed. We reminded the association that just asserting their rights can foster a defensive response.

The need for formal meetings invariably means that there are challenging situations to manage, not just with the employee concerned but also possibly colleagues and the wider school. The 'tone' of all actions in connection with progressing the issue of concern will play a large part in minimising disruption, negative relationships, and the ability to re-establish normal working practice afterwards.

Headteachers may wish to contact their HR provider, if they are having difficulty in working with the unions on these matters.